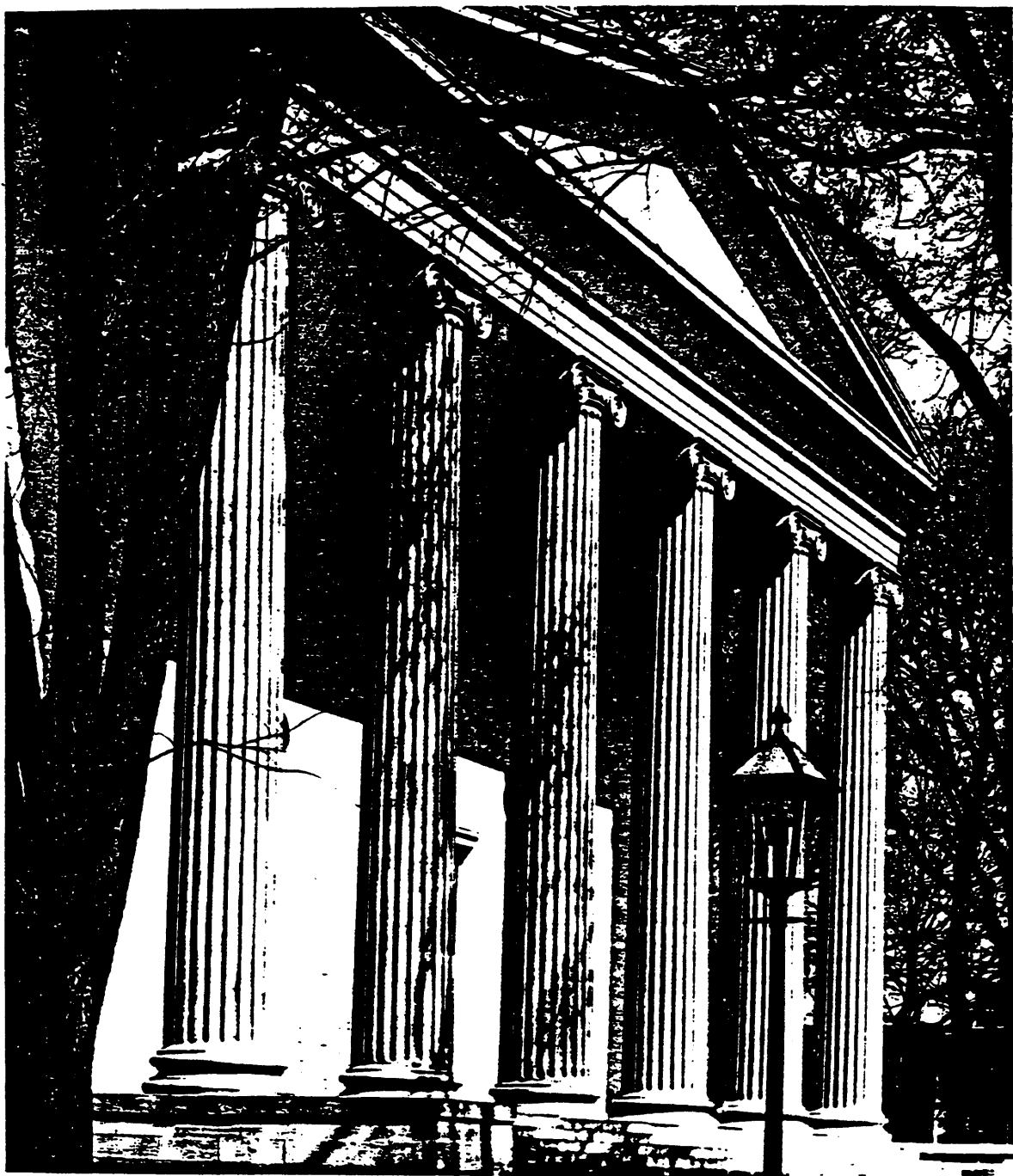


Report of the Special Commission on Constitutional Review



Research Report No. 226
Legislative Research Commission
Frankfort, Kentucky

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

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* * * * *

The Kentucky Legislative Research Commission is a sixteen member committee, comprised of the majority and minority leadership of the Kentucky Senate and House of Representatives. Under Chapter 7 of the Kentucky Revised Statutes, the Commission constitutes the administrative office for the Kentucky General Assembly. Its director serves as chief administrative officer of the Legislature when it is not in session.

The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the General Assembly. The Commission provides professional, clerical and other employees required by legislators when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual members in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, furnishing information about the Legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting a pre-session orientation conference for legislators, and publishing a daily index of legislative activity during sessions of the General Assembly.

The Commission is also responsible for statute revision, publication and distribution of the *Acts* and *Journals* following sessions of the General Assembly and for maintaining furnishings, equipment and supplies for the Legislature.

The Commission functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

1987 SPECIAL COMMISSION ON CONSTITUTIONAL REVIEW

VOTER APPROVAL OF COMMISSION RECOMMENDATIONS ACTED UPON BY THE GENERAL ASSEMBLY

Thirteen of the Special Commission on Constitutional Review's recommendations, some in a slightly modified form, have been adopted by the people and made part of the Constitution. Those adopted recommendations include permitting the operation of a state lottery, joint election of the Governor and Lieutenant Governor, devising a method by which a determination of a Governor's disability may be made, allowing the Governor to retain the powers of the office while absent from the state, succession for statewide officers, the abolition of an elected Superintendent of Public Instruction, conducting elections only in even-numbered years except for statewide officers, clarifying and broadening property tax exemptions for institutions of religion, modifying provisions regarding the structure and functions of local government including the provision of constitutional "home rule," a revision of the city classification process, and liberalized financing and debt capacity limitations, deleting the requirement for racially-segregated public schools, and deleting the authority for the levy of a poll tax.

Listed below are the adopted recommendations. Where noted by an asterisk, the submitted amendments were modified from the original recommendation or contain only a part of a recommendation.

* Recommendation No. 1: The adopted amendment required the joint election of the Governor and Lieutenant Governor, provided for the assignment of duties to the Lieutenant Governor by the Governor or by statute, replaced the Secretary of State with the Attorney General as third in the line of gubernatorial succession. The recommendation also called for abolishing the office of Secretary of State and merging it with the office of Lieutenant Governor who would still preside over the Senate and be first in the line of succession and also sought to replace the Secretary of State with the House Speaker in the line of gubernatorial succession.

Recommendation No. 4: Determination of the Governor's disability.

Recommendation No. 5: Governor's retention of powers when absent from the state.

Recommendation No. 7: Succession for statewide officers.

* Recommendation No. 16: The recommendation called for the repeal of Section 187. The adopted amendment deleted the requirement that racially-segregated schools be maintained and left the remainder of Section 187's language intact.

* Recommendation No 23: Appointed rather than elected Superintendent of Public Instruction. The recommendation was for an amendment to create an elected State Board of Education which would appoint a Superintendent. The adopted amendment eliminated the elected Superintendent and the appointed State Board was created by KERA.

* Recommendation No. 29: The recommendation called for clarification of the provisions allowing exemptions from property taxes but was not specific as to how to do that. The adopted amendment broadened and clarified the property tax exemption for institutions of religion.

* Recommendation No. 30: The recommendation related to a local government's assuming more debt in a fiscal year than could be paid off with incoming revenues during that same fiscal year. To do this, the local government had to get the approval of 2/3 of its voters. The recommendation was to reduce the approval vote requirement to 1/2, rather than 2/3. The adopted amendment deleted the vote requirement altogether.

* Recommendation No. 32: The recommendation called for the repeal of Section 180. The adopted amendment deleted language authorizing the levy of a poll tax and left the remainder of Section 180's language intact.

* Recommendation No. 43: The recommendation called for the elimination of elections in odd-numbered years. The adopted amendment eliminated odd-year elections except for elections for statewide officers.

Recommendation No. 47: Elimination of the prohibition against lotteries and gift enterprises.

* Recommendation No. 64: The recommendation was to delete the city classification system, authorize the General Assembly to prescribe the structure and function of municipal government. define what constitutes a

city, and require the General Assembly to provide alternative forms of government by merger or reorganization by local referendum. The adopted amendment retained the city classification system but required the General Assembly to create one based on more than just population. It did authorize the General Assembly to prescribe the structure and functions of city government, but it also authorized, rather than required, the General Assembly to provide for merger and reorganization of city government but without the requirement for a local referendum. There are already statutes on the books which provide for merger of cities and a local referendum is required, so the grant of authority provides a constitutional basis for those statutes.

* Recommendation No. 72: The recommendation was for an amendment which provided "home rule" for all local governments. While there is statutory "home rule" for cities and counties, the adopted amendment only granted it constitutionally to cities.

10
12
13
14

**REPORT OF THE
SPECIAL COMMISSION ON CONSTITUTIONAL REVIEW**

Research Report No. 226

**Presented To
THE LEGISLATIVE RESEARCH COMMISSION
The Capitol
Frankfort, Kentucky**

September 1, 1987

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TABLE OF CONTENTS

	PAGE
Chairman's Letter of Transmittal—Judge William Howerton	1
Subcommittee on State Government.....	5
Chairman's Introduction—Mr. Joe Prather	7
Subcommittee Recommendations.....	11
Subcommittee on Education and Human Services	25
Chairman's Introduction—Mr. Al Smith.....	27
Subcommittee Recommendations.....	29
Subcommittee on Revenue and Taxation	41
Chairman's Introduction—Mr. Gross Lindsay.....	43
Subcommittee Recommendations.....	47
Subcommittee on Bill of Rights/Elections	59
Chairman's Introduction—Mr. George Street Boone.....	61
Subcommittee Recommendations.....	65
Subcommittee on Local Government	95
Chairman's Introduction—Judge Mike Miller	97
Subcommittee Recommendations.....	101
Subcommittee on Private Corporations	121
Chairman's Introduction—Senator David Williams.....	123
Subcommittee Recommendations.....	131
Listing of Prioritized Proposals for Constitutional Amendment	143
APPENDIX.....	147
Resolution of the Legislative Research Commission.....	149
Constitution of Kentucky.....	151
Constitution Section Index.....	185

FOREWORD

The Constitution of Kentucky is the principal law of the Commonwealth. Its authority is superseded only by the Constitution of the United States and federal law. Kentucky's present Constitution is the fourth to be used by the state. It was written in 1890-91 and became effective in 1892. Previous Constitutions of the Commonwealth were drafted in 1792, 1799, and 1849.

The Constitution of 1891 has been in effect for a much longer period of time than any of its predecessors. Since its implementation, Kentucky, and indeed the world, has seen drastic alteration and development in the areas of technology, commerce and finance, governmental operation and management, and general social structure. Ironically, our Constitution was written during a period of distrust of such change. The resultant lengthy and specifically worded document has often been criticized as lacking the flexibility to adapt to the changing times.

Sixty attempts to amend the Constitution have been made since its implementation in 1892, but only 27 have been successful, the most recent in 1986. In 1967, proposed major revisions in the present Constitution were submitted to the voters, the result of efforts by a special Constitution Revision Assembly created by the legislature. The vote was overwhelmingly against the proposed changes. Four unsuccessful attempts also have been made, over the years, to call a constitutional convention to draft a new Constitution. The most recent such failure occurred in November 1977.

In January of 1987 the Legislative Research Commission created the Special Commission on Constitutional Review. The LRC was mindful that recent past attempts at wholesale constitutional overhaul have lacked popular support. The Special Commission was therefore charged with conducting a section by section review of the Constitution. Suggestions made for improvement of these sections might then serve as a guidepost for constitutional amendments offered for voter approval over a number of years.

This report is the result of the initial review of the Special Commission on Constitutional Review. It contains seventy-seven individual suggestions for alteration of our constitutional document. The Special Commission on Constitutional Review is officially constituted as a body until May of 1988, at which time the LRC will evaluate its effectiveness.

Vic Hellard, Jr.
Director

The Capitol
Frankfort, Kentucky
1987



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John D. Rogers
Minority Floor Leader

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LEGISLATIVE RESEARCH COMMISSION

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September 1, 1987

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Minority Whip

House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, KY 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

Transmitted herewith is the final report of your Commission on Constitutional Review. As you requested, we have reviewed Kentucky's Constitution, section by section. The report presents our recommendations for amendments, deletions, and additions.

In my opinion, the report contains the best suggestions the Commission could compile in the brief time we had in which to complete our work. Given an unlimited time frame, the Commission would have preferred to formulate specifically worded ballot-ready amendments which contain combinations of related proposals contained in this report. The report should be valuable, however, as a "menu" from which the General Assembly may select ideas for constitutional reform.

In order to help you understand how we reached our results and to help support the validity and value of the recommendations, I will explain some of the methods we used and how we organized our work. Our members represented many backgrounds and all areas of Kentucky. Business, labor, city and county government, the media, academia, the legislative, executive and judicial branches of state government all were represented on the Commission. We divided sections of the Constitution into six subject groups and assigned them for the review of six subcommittees of the Commission. Subcommittee jurisdictions were: state government, local government, revenue and taxation, education and human services, private corporations and railroads, and bill of rights and elections.

Each subcommittee had a chairman and vice chairman. These individuals were also members of an Executive/Editorial Committee which served several purposes. This committee helped to coordinate the work of all committees, to identify and resolve conflicts, and to plan the final package. We have held three meetings of the entire commission, three meetings

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Two

of the Executive Committee, and each subcommittee conducted several meetings or hearings. All meetings have been open to the public, and groups and individuals were invited to attend and to testify about appropriate concerns. Several witnesses did testify at the subcommittee hearings.

This final report of the Commission is divided into chapters which correspond to jurisdictions of the six subcommittees. The recommendations for constitutional amendment proposed by each subcommittee are preceded by a letter of introduction from the chairman of that subcommittee. These statements explain in some detail the work and recommendations of each committee. In some of these statements, you will also find suggestions concerning possible ways for grouping multi-section proposed amendments.

With a limit of four amendment proposals per session of the General Assembly and 263 sections in the Constitution (many being in need of some amending), the idea of clustering homogeneous sections for amendment (such as the 1975 judicial article which amended 33 sections) could be very important. However, many factors must be considered in deciding when and how to put what with what. This will take the best political wisdom the General Assembly can muster after conducting its own hearings.

Each of the 263 sections of the Constitution has been considered. We have few unanimous recommendations. It was therefore felt important that this report reflect levels of support within the Commission for each amendment proposal. Toward this end, on July 13, 1987, each member of the Commission was mailed a survey ballot. The survey ballot contained copies of each of the 77 proposals for constitutional amendment offered by the six subcommittees. Members of the full Commission were given the opportunity to mark on the ballot support, opposition, or lack of an opinion concerning individual proposals. Some members did not return their questionnaire or vote on any of the proposals. Those proposed amendments receiving over fifty percent support as indicated from responses received appear in this report. Each proposal is accompanied by a notation of the percentage rate by which it was approved.

We have no way of knowing who voted for or against the individual proposals. I personally disapproved of several proposals, but in keeping with the general idea of the report, I will not attempt to influence the success or failure of any of the suggestions by stating how I personally voted on any item. Nevertheless, any of the Commission members may, and should, be available to assist the General Assembly when and if it conducts hearings on any proposed constitutional amendments. At that time, you may learn how individual members feel about specific proposals.

Commission members recognized that of the many proposals to be offered, some would be of more immediate importance to the Commonwealth than others. Although some sections, such as the requirement for segregated schools, are now only unenforceable embar-

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Three

rassments, they nevertheless need to be removed or changed. On the other hand, one of our proposals of immediate concern would allow the governor to continue to be governor when he or she leaves the state. After all, we do have telephones now. This subject has been in the news recently concerning a possible call by the Lieutenant Governor for a special session of the General Assembly to consider the problem of workers' compensation.

Respondents to the survey ballot were therefore asked to assign a priority ranking from one to five inclusive to each proposed amendment. A priority ranking of "1" denoted a proposal considered crucial in affecting the future of Kentucky, including its ability to compete with other states. A priority ranking of "5" denoted a proposal which, although desirable, is not urgent nor does it affect the future of Kentucky. Priority ratings were then averaged among responses received in order to generate a priority index for each proposal. This priority index accompanies each amendment proposal in this report.

I was a bit surprised that no proposals in our report pertained to the bonding abilities of the Commonwealth or to its debt limit. As pointed out in the Chairman's introduction to the recommendations of the Revenue and Taxation Subcommittee, however, the experts from the Revenue Cabinet wanted to leave that subject alone. This and other subjects may be vital to Kentucky's economic health and its ability to compete with sister states and foreign countries in the future. Therefore, our decision to make no recommendation on this, or any other subject, should in no way influence the Legislative Research Commission or the General Assembly not to cause further study of a particular issue.

Our work has made each of us aware of several needs for improvement in our Constitution, which was adopted during a time vastly different from today. The Kentucky Constitution is comparable to a restrictive set of statutes, unlike the United States Constitution, which basically sets forth principles and guidelines for an expanding future. While Kentucky's Constitution is certainly not all bad, it is nevertheless due for some repair.

Our courts have been able to provide some spectacular decisions to relieve the problems of our restrictive Constitution, as evidenced by the "rubber dollar" theory and the recent Toyota case, but the people have not always been able to depend upon judicial gymnastics to correct some serious problems. When serious problems do exist with our Constitution, the people need to be open for amendments.

Hopefully, the citizens of Kentucky will begin to realize that our State Constitution is not an untouchable "Ark of the Covenant." To say that Kentucky's Constitution is "untouchable" gives too much credit to the wisdom of the drafters living in the 1890's and unreasonably binds Kentuckians living in the 1980's.

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Four

I want to express my thanks to the Commission members who devoted so much time, effort, and talent to our task. I especially want to compliment staff of the Legislative Research Commission for their tireless work and expertise. Robert Sherman and David Morris served as General Counsel to the Commission. Subcommittees were staffed by Janie Jones, Linda Wood, Joyce Honaker, Jamie Franklin, Dee Baugh, Gilmore Dutton, Norman Lawson, Anita Taylor, Geri Grigsby, and Rhonda Franklin. Rita Ratliff served as Commission secretary, compiled figures, and typed this report. The job could not have been done without their help.

It has been my pleasure and privilege to chair the Commission. I only hope our efforts will be of some benefit to you and to Kentucky. We stand ready to assist in continuing the effort to improve our Constitution. If we can be of further assistance, please let us know.

Sincerely,

J. William Howerton
Chairman
Special Commission on Constitutional Review

JWH:bs/r

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON STATE GOVERNMENT**

**Joe Prather, Chairman
Tom Lewis, Vice Chairman
Governor Bert Combs
Governor Louie Nunn
Judge William Graham
Senator David LeMaster
Dr. Chun Ro
Bill Doll**



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Majority Whip

Bill Lile
Minority Whip

September 1, 1987

House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, KY 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

The Subcommittee on State Government held five meetings between March 20 and July 6, 1987, to review issues relating to 96 sections of the 1891 Constitution. The Subcommittee considered prior proposals to revise the Constitution, members' suggestions, and data on the practices of other states. Supreme Court Chief Justice Robert F. Stephens presented proposals concerning the selection of justices and judges. In its discussion of the office and duties of the Lieutenant Governor, the Subcommittee was assisted by Ms. Gail Manning, Administrative Assistant to the National Conference of Lieutenant Governors.

The Subcommittee has proposed 12 constitutional amendments relating to Kentucky's state governmental structure, procedures, and powers. The Subcommittee's philosophy in approaching its task was primarily to recommend what it felt was best for the Commonwealth rather than to base its recommendations on political acceptability. We felt that decisions about the acceptability of the constitutional revision proposals are the prerogative of the General Assembly and the electorate.

The following background information on several of the Subcommittee's recommendations is offered to assist the Legislative Research Commission, the General Assembly, and the public in evaluating our proposals.

Speaker Blandford
President Pro Tem Rose
Members, Legislative Research Commission
September 1, 1987
Page two

The Subcommittee felt that team nomination and election of the Governor and Lieutenant Governor would enhance the philosophical and political compatibility of the two officers and thereby contribute to a more meaningful executive branch role for the Lieutenant Governor.

The Subcommittee's recommendation that all justices and judges be appointed by the Governor from lists of persons submitted by nominating commissions and, thereafter, run for retention is based upon concerns about nationwide trends toward excessive spending in judicial elections and negative effects of political pressures on both appellate and trial judges. While the "Missouri plan" for judicial selection generally applies only to higher courts in Missouri, the Subcommittee felt that in many respects, trial judges experience even greater political pressures than appellate court judges.

The proposed amendment to Constitution Section 54, relating to limitations on recovery in the event of injury or death, generated dissent. The majority of the members agreed that the General Assembly should be permitted to limit recovery for nonpecuniary damages. While some members felt that the liability problem is not as serious in Kentucky as in some other states, they felt it probably will be in the future. Senator David LeMaster felt that Section 54 and related Sections 14 and 241 should be left intact.

In recommending that the General Assembly be permitted to specify the forum and conditions for suing both the state and political subdivisions, the Subcommittee intends that the General Assembly be allowed to structure some limits on suits against cities. The Subcommittee does not feel that cities should thereby be granted complete immunity from suit.

The recommendation that the General Assembly be specifically empowered to employ a legislative auditor is based upon concern that the separation of powers clause of the Constitution might be interpreted to preclude oversight auditing of the other branches of government by the legislative branch.

In addition to the issues addressed by proposed amendments, the Subcommittee considered several areas in which it decided to propose no changes. It was the consensus of the Subcommittee to propose no amendments concerning legislative sessions, legislators' terms of office and interim legislative powers. With respect to Constitution Section 116, relating to judicial rule-making, the Subcommittee discussed whether there is a need to distinguish between matters that are procedural, and hence within the Court's powers, and

Speaker Blandford
President Pro Tem Rose
Members, Legislative Research Commission
September 1, 1987
Page three

those that are substantive, and hence within the General Assembly's power. The Subcommittee concluded that such an amendment would be extremely difficult to draft and that more experience under the new judicial system is needed.

Respectfully submitted,

Joseph W. Prather, Chairman
Subcommittee on State Government
Commission on Constitutional Review

JP/ps

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 1

PROPOSED AMENDMENT

Abolish the office of Secretary of State and consolidate that office with the office of Lieutenant Governor, who would continue to preside over the Senate, be first in the line of succession and could have additional duties assigned by the Governor or by statute. The Speaker of the House of Representatives would replace the Secretary of State as third in the line of gubernatorial succession. The Governor and Lieutenant Governor should be slated as a team prior to the primary election. Amend sections 70, 82, 87, 88, 91, 93, 95, 171, 190, 256, 257, 258 and 263 to conform.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	90%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	31
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.70

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 2

PROPOSED AMENDMENT

Reduce the number of officers elected statewide to four: the Governor, the Lieutenant Governor, the Attorney General and the Auditor of Public Accounts. Amend Sections 53, 87, 88, 91, 93, 94, 95, 171, 190, 245, 256, 257, 258 and 263 to conform.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	90%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	9
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.15

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 3

PROPOSED AMENDMENT

Permit the General Assembly to appoint an Inspector and Examiner to serve at its pleasure, to conduct audits as prescribed by law and to have such other responsibilities and duties as may be prescribed by the General Assembly.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	62%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	55
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.45

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 4

PROPOSED AMENDMENT

Adopt the following constitutional provision to define the manner in which gubernatorial disability is to be determined:

Upon certification by the Attorney General and the Auditor of Public Accounts that the Governor is disabled, those officers would petition the Speaker of the House and the President Pro Tempore of the Senate to convene the General Assembly within 72 hours to vote on the question of disability.

Upon concurrence of three-fifths (3/5) of the elected membership in each chamber of the General Assembly, meeting in joint session but voting separately, the Governor would be declared disabled and the Lieutenant Governor would become Acting Governor. If the Lieutenant Governor becomes Acting Governor, he would retain the duties of the office of Lieutenant Governor. The office of Lieutenant Governor would remain vacant during his tenure as Acting Governor.

The question as to whether disability has terminated would be decided by the Supreme Court of Kentucky. If a justice of the Supreme Court should disqualify himself from consideration of the matter due to a conflict of interest (e.g., having been appointed to fill a vacancy on the Court by the Governor), a provision similar to language contained in 1984 HB 133, Section 1(4), page 2, line 16, should be followed. That bill provided that:

If as many as two justices of the Supreme Court decline or are unable to sit on the trial of any cause under this section, the Chief Justice shall appoint a sufficient number of judges having the qualifications of justices to constitute a full court for the trial of the cause.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review

95%

Percentage of member responses **opposing** inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating **no opinion** concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 5%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 28

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.67

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 5

PROPOSED AMENDMENT

Amend Section 84 to allow the Governor to be absent from the state, but retain his authority so long as he can stay in close touch with Frankfort. The new language would provide for the Lieutenant Governor to become Acting Governor if the Governor is to be absent and "certifies by entry on his journal that temporarily he cannot discharge the duties of his office." The same would apply throughout the line of succession.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	95%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	29
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.68

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 6

PROPOSED AMENDMENT

Amend Section 46 to eliminate the requirement that every bill be given one reading at length.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	49
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.18

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 7

PROPOSED AMENDMENT

Amend Sections 71, 82 and 93 to allow statewide, elected officials to succeed themselves, but be limited to two four-year terms.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	95%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	9
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.15

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 8

PROPOSED AMENDMENT

Amend Section 54 to read as follows:

“The General Assembly shall have no power to limit the amount to be recovered for economic loss, including medical expenses, property damage, and lost earnings arising from injuries resulting in death, or for injuries to person or property. The General Assembly shall have the power to limit the amount to be recovered for noneconomic loss, punitive damages and all other nonpecuniary damage arising from injuries resulting in death or from injuries to person or property.”

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	5
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.00

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 9

PROPOSED AMENDMENT

Amend Section 249 to read as follows:

“The General Assembly may, by general law, provide for the appointment or employment of such personnel necessary for the operation of the General Assembly, whether in session or not. The General Assembly may provide by general law for the fixing of the per diem or salary of all such employees.”

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	42
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	3.00

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 10

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution to select judges according to the "Missouri Plan," whereby all judges would be appointed by the Governor from lists of persons submitted by nominating commissions and would, at intervals, stand for retention election. Amend Sections 117 and 119 to conform.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	67%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	24%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	35
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.81

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 11

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution to require the General Assembly to regulate, by general law, the conduct of elections, including but not limited to: (1) campaign financing; and (2) the spending of money in elections for public office.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 86%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 14%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 6

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.05

SUBCOMMITTEE ON STATE GOVERNMENT

AMENDMENT PROPOSAL NUMBER 12

PROPOSED AMENDMENT

Amend Section 231 to read as follows:

“The General Assembly shall, by law, direct in what manner, within what limits, and in what courts or boards suits may be brought against the Commonwealth and its political subdivisions.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	24%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	19
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.50

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES**

**Al Smith, Chairman
Dr. Tom Clark, Vice Chairman
Representative Louie Mack
Faith Lyles
Loretta Stewart
Sheila Hawkins**



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Assistant President Pro Tem

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Majority Floor Leader

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Minority Floor Leader

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Dr. Jack Trevey
Minority Caucus Chairman

Helen Garrett
Majority Whip

Eugene P. Stuart
Minority Whip

LEGISLATIVE RESEARCH COMMISSION

State Capitol

Frankfort, Kentucky 40601

502-564-8100

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Donald J. Blandford, House Speaker
Chairmen

Vic Hellard, Jr.
Director

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Jody Richards
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Minority Caucus Chairman

Kenny Rapier
Majority Whip

Bill Lile
Minority Whip

September 1, 1987

House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, Kentucky 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

The Subcommittee on Education and Human Services was charged with examining Sections 155, 183 through 189, 243, 244, 244A, and 252 through 254 of the Kentucky Constitution. The Subcommittee held two formal meetings, and spent a great deal of time outside of meetings individually reviewing each section and each recommendation.

The Subcommittee was fortunate to have a noted historian and expert on the Constitution as a member. In addition to examining the Kentucky Constitution, Dr. Tom Clark greatly assisted the Subcommittee by reviewing and comparing the education sections of most other state constitutions with that of Kentucky.

Of the fourteen sections assigned for review, the Subcommittee recommends that four sections not be changed, that five sections be amended, that five sections be repealed, and that one new section be added. The sections recommended for repeal are either totally obsolete or were included in one of the amended sections.

Six of the sections are directly related to the Department of Corrections and to the Cabinet for Human Resources. Representatives of both agencies appeared before the Subcommittee to discuss those sections and to offer suggestions for changes.

Of the eleven amendments proposed by the Subcommittee, two appear to be more urgent than the other nine. These two are the recommended new section and Section 183. The new section requires that the Superintendent of Public Instruction be appointed and represents a compromise between what has been previously proposed but rejected and what has been previously recommended but not placed on the ballot.

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Two

Much opposition in the past has related to how the State Board of Education is selected. Many people feel that if the Governor appoints the board, which, in turn, appoints the superintendent, the Governor would have complete control of education. Others feel that if the board is elected, the system would be even more political than it now is. The proposed amendment is somewhat of a midpoint between the two extremes. Over half the thirteen members would be elected by the people and no one governor could appoint more than four members.

The second area mentioned earlier, Section 183, attempts to provide a more specific description of the State's responsibility in providing a system of public schools for all citizens of Kentucky. The existing language has been in dispute for some time. In fact, at this writing, litigation concerning the exact meaning of Section 183 is going on.

The remaining proposed amendments dealing with education, Sections 184 through 189, can be combined into one amendment.

Respectfully submitted,

Al Smith
Chairman
Subcommittee on Education and Human Services
Commission on Constitutional Review

AS:jj/chs

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 13

PROPOSED AMENDMENT

Amend Section 183 to read as follows:

"The General Assembly shall provide adequate and uniform support for a free and quality system of primary and secondary education to be made available to all children of school age in the Commonwealth without bias as to sex, religion, race, or ethnic origins. The state shall adequately support a system of universities and colleges."

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	8
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.12

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

PROPOSAL NUMBER 14

PROPOSED AMENDMENT

Repeal Section 184, which currently reads as follows:

Common School Fund; what constitutes; use; vote on tax for education other than in common schools.

The bond of the Commonwealth issued in favor of the Board of Education for the sum of one million three hundred and twenty-seven thousand dollars shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the Bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for purposes of common school education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation: Provided, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 76%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 24%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

15

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

2.27

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 15

PROPOSED AMENDMENT

Repeal Section 185, which currently reads as follows:

Interest on school fund; investment.

The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock, the proceeds of sale shall be invested by the Sinking Fund Commissioners in other good interest-bearing stocks or bonds, which shall be subject to sale and reinvestment, from time to time, in like manner, and with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
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OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 76%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 24%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 20

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.53

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 16

PROPOSED AMENDMENT

Repeal Section 187, which currently reads as follows:

White and colored to share fund without distinction; separate schools.

In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 95%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 5%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 24

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.58

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 17

PROPOSED AMENDMENT

Repeal Section 188, which currently reads as follows:

Refund of Federal direct tax part of school fund; irredeemable bond.

So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund, and be held as provided in section 184; but the General Assembly may authorize the use, by the Commonwealth, of moneys so received or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions, and subject to the provisions of section 184, concerning the bond therein referred to.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	36
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.82

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 18

PROPOSED AMENDMENT

Amend Section 189 to read as follows:

“No portion of any public funds appropriated or raised for support of public schools or higher education shall ever be diverted to the use of a denominational, religious, sectarian, or private school system.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	4%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	22
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.555

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 19

PROPOSED AMENDMENT

Amend Section 244A to read as follows:

"The General Assembly may prescribe such laws as it deems necessary for the provision of public assistance to the aged, infirm, and needy."

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	18
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.47

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 20

PROPOSED AMENDMENT

Amend Section 252 to delete "Said institution shall be known as the 'House of Reform.'"

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
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Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
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Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
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Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	61
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Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	4.06
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SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 21

PROPOSED AMENDMENT

Amend Section 253 to read as follows:

“Persons convicted of a felony and sentenced to confinement in the penitentiary shall be confined in a state penitentiary except that the Commonwealth of Kentucky may use, employ, or lease the services of such persons outside of the penitentiary in such manner and means as provided by law. The Commonwealth shall maintain control of the discipline and care of the convicts to insure security of the prisoners and of the general public.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	90%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	43
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	3.05

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 22

PROPOSED AMENDMENT

Repeal Section 254, which currently reads as follows:

Control and support of convicts; leasing of labor.

The Commonwealth shall maintain control of the discipline, and provide for all supplies, and for the sanitary condition of the convicts, and the labor only of convicts may be leased.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	57
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.56

SUBCOMMITTEE ON EDUCATION AND HUMAN SERVICES

AMENDMENT PROPOSAL NUMBER 23

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution to read as follows:

“The public primary and secondary school system shall be administered by a superintendent of public instruction under the supervision of a state board of education. The superintendent of public instruction is to be appointed by the board of education for an agreed upon term of service. Members of the state board of education are to number thirteen, one to be elected from each of the current seven congressional districts, six to be appointed by the governor, with approval of the Senate and House of Representatives. If the number of congressional districts is either reduced or increased, the General Assembly shall provide by law for the election of the necessary number of board members to insure that a majority is elected by popular vote. The terms of board members are to be staggered so that no more than four members will be appointed in any one gubernatorial term”; amend Sections 91, 93 and 95 to conform.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	29%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	2
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	1.50

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON REVENUE AND TAXATION**

Gross Lindsay, Chairman
Ed Holloway, Vice Chairman
Judge Delzinna Belcher
Mayor Jack Fisher
Dot Darby
Reginald Thomas



SENATE MEMBERS

Charles W. Berger
Assistant President Pro Tem

Joe Wright
Majority Floor Leader

John D. Rogers
Minority Floor Leader

David K. Karem
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Eugene P. Stuart
Minority Whip

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State Capitol

Frankfort, Kentucky 40601

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Jody Richards
Majority Caucus Chairman

Ken Harper
Minority Caucus Chairman

Kenny Rapier
Majority Whip

Bill Lile
Minority Whip

September 1, 1987

Senator John A. Rose, Senate President Pro Tem
Representative Donald J. Blandford, House Speaker
Chairmen, Legislative Research Commission
State Capitol Building
Frankfort, Kentucky 40601

Dear Co-chairmen:

This letter constitutes transmittal of the recommendations from the Subcommittee on Revenue and Taxation of the Commission on Constitutional Review. By way of background, the Subcommittee began its work on March 11 and convened meetings thereafter on April 1, April 8, April 29, May 13, June 9 and July 8, all held in Frankfort with good Subcommittee attendance. All interested parties, both within government and the private sector, were invited to attend the meetings which were open to the public.

Major issues of testimony, analysis and discussion by the Subcommittee included:

- state and local bonded indebtedness;
- local government taxation options;
- effective administration of the Revenue, Finance and Administration and Commerce Cabinets as it relates to the sections under review;
- effective oversight and decision-making by the legislature and the executive in administration of the state budget in times of revenue shortfall;
- effective competition in economic development by the state in terms of tax abatement by local governments;
- consistency in exemption of property from taxation;

September 1, 1987
Page Two

- potential conflicts regarding Sections 3, 4, 50, 51, 59, 60, 171, 177 and 179 and financial incentive packages offered by the state similar to that between the state and the Toyota Motor Corp.; and

- repeal of obsolete sections.

The recommendations of the Subcommittee, following debate and discussion of these issues, follow this letter. However, the Subcommittee also recommends that the appropriate legislative committee study further the issues and constitutional sections relating to the areas of:

- consistency and greater stringency in property tax exemption (170, 171, 172 and 174); and

- financial incentives offered by the state in economic development pursuits and the entire area of the state's bonding authority and capacity (3, 49, 50, 51, 59, 60, 171, 177 and 179).

In light of recent court decisions in these two areas, the Subcommittee refrained from specific recommendations on these potentially critical sections but recognizes that prompt legislative attention appears to be needed.

From the various hearings that were had by this Subcommittee, the number one priority seemed to be amending Section 181 of the Constitution to allow greater flexibility in the levying of taxes by local governments. This was especially true considering the recent loss of federal revenue sharing funds by local governments.

Our second priority was the creation of an Emergency Budget Board composed of representatives of the Legislative, Executive and Judicial Branches that would operate in times of specified levels of revenue shortfalls such as we have had the last several years. It was the feeling of the Subcommittee that such a board could save the taxpayers money by alleviating the need for a special session in many instances and could operate on short notice with input from all three branches of government.

The other proposals of the Subcommittee on Revenue and Taxation can be found in the survey ballot. Each proposal has been given a ranking according to the Subcommittee's feeling of importance.

One matter which was not addressed by the Subcommittee is the question of changing the Constitution insofar as the issuance of bonds or debt limits is concerned. The Subcommittee, on several occasions, discussed the question of indebtedness and the issuance of bonds both "revenue" and "general obligation" by the Commonwealth. At no time did

anyone from the Executive Branch, Office for Investment and Debt Management or Office of Local Government ever request any change in the present provisions of the debt limitation or the authorization for issuance of bonds. To the contrary, the representatives of the Executive Branch informed this Subcommittee that Kentucky's bonding procedure was well recognized by the bonding community and any change could be detrimental to the state. No request was made of this Subcommittee to change the authorization of the state in the issuance of bonds even though the Toyota Motor Corp. incentive case was being litigated. No one on this Subcommittee nor any of its staff have been contacted by anyone within the Executive Branch or elsewhere to change the language or our present Constitution insofar as the issuance of bonds since the Toyota decision came down from the Kentucky Supreme Court.

This Subcommittee, in fact, discussed the Toyota decision and the possible effect it may have on future projects and the bonding capacity of the Commonwealth. It was the Subcommittee's feeling 1) that we were not equipped to make any recommendation for changes in the present Constitution within the time limitations of this Commission, and 2) that it was the consensus of the Subcommittee that it may be dangerous to open up the bonding capacity of the state for private benefactors. It was the Subcommittee's feeling that the ability to issue bonds for private industry could lead to dire political and economic consequences. The limiting provisions of the present Constitution seemed to be aimed at the railroads in 1890 but in today's market, it could be abused by a multitude of industries. Therefore, the Subcommittee did not recommend any change in authority or in the debt capacity of the Commonwealth as found in the present Constitution.

Other sections of the Constitution under the Subcommittee's jurisdiction that do not appear in our recommendations did not appear to warrant legislative attention after extensive meetings, testimony and the Subcommittee's considered deliberations.

The Subcommittee does not recommend any "clustering" of amendments for the sections in our charge. A possible exception could be those sections for which repeal was called on the basis of being obsolete. If such unneeded sections as the "poll tax" section, for example, could be grouped in an omnibus, "housecleaning" amendment, two sections in our jurisdiction could be included: 157a and 180.

Respectfully submitted,

Gross Clay Lindsay
Chairman
Subcommittee on Revenue and Taxation

GCL/lh

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 24

PROPOSED AMENDMENT

Amend Section 181 to extend powers of the General Assembly to "provide for the payment of license fees on franchises, stock used for breeding purposes, the various trades, occupations and professions or a special or excise tax" to cities, counties, and municipal corporations, upon authorization by the General Assembly. Add "General Assembly may also provide for state collection of such local taxes." Strike section language that would be to the contrary.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	3
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	1.59

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 25

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution to create the Kentucky Emergency Budget Board. The Board shall be composed of six members of the legislative branch: Speaker of the House, President Pro Tem of the Senate, House and Senate Chairs of the respective Appropriations and Revenue Committees, and two members of the minority party as appointed by House and Senate minority leaders; six members of the executive branch as designated by and to include the governor; and, the Chief Justice of the Kentucky Supreme Court or his designee. Chairmanship of the Board shall alternate between the President Pro Tem and the Speaker, starting with the President Pro Tem upon initial convening of the Board. The Board shall convene when projected or actual tax receipts accruing to the General Fund are up to 3.75% less than revenue estimates for the fund. The Board will meet to approve recommendations by each branch head for meeting reductions necessitated by the shortfall. The Board may also adopt its own plan for altering agency allotments to meet the shortfall. The Board's powers shall include reducing allotments, transferring available agency funds to the General Fund and allotting funds from an emergency reserve fund created and funded by appropriation for that purpose by the General Assembly. The Board's powers shall terminate when the shortfall in any fiscal year reaches or surpasses 7.5%.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	52%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	29%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

1

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

1.42

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 26

PROPOSED AMENDMENT

Amend Section 170 to insert "and counties" in provisions allowing cities to exempt private property from taxation for up to ten years for public purposes.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 95%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review 5%

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 9

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.15

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 27

PROPOSED AMENDMENT

Amend Section 109 to provide for the creation of a Tax Court with the following language: "The General Assembly may establish a circuit court with jurisdiction over disputes involving revenue and taxation."

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	34
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.79

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 28

PROPOSED AMENDMENT

Amend Section 52 to add language to allow the Revenue Cabinet to compromise tax liability or collectibility with the following language: "except that the General Assembly may authorize the appropriate officer of the executive department who administers the revenue and taxation laws of the Commonwealth to compromise the liability of a person in respect of any tax for any taxable period upon a property demonstration by such officer that the compromise is in the best interest of the Commonwealth."

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	67%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	24%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	46
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.076

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 29

PROPOSED AMENDMENT

Amend Sections 170, 171, 172, and 174 to seek clarification of property tax exemption language.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	15
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.27

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 30

PROPOSED AMENDMENT

Amend Section 157 to change requirement of 2/3 vote on local indebtedness to a majority vote; delete property tax rate maximums as designated by class of city; allow rates to be designated by the General Assembly.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	19
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.50

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 31

PROPOSED AMENDMENT

Repeal Section 157A, which currently reads as follows:

Credit of Commonwealth may be loaned or given to county for roads; county may vote to incur indebtedness and levy additional tax for roads.

The credit of the Commonwealth may be given, pledged or loaned to any county of the Commonwealth for public road purposes, and any county may be permitted to incur an indebtedness in any amount fixed by the county, not in excess of five per centum of the value of the taxable property therein, for public road purposes in said county, provided said additional indebtedness is submitted to the voters of the county for their ratification or rejection at a special election held for said purpose, in such manner as may be provided by law and when any such indebtedness is incurred by any county said county may levy, in addition to the tax rate allowed under section 157 of the Constitution of Kentucky, an amount not exceeding twenty cents on the one hundred dollars of the assessed valuation of said county for the purpose of paying the interest on said indebtedness and providing a sinking fund for the payment of said indebtedness.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	67%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	28%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

41

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

2.93

SUBCOMMITTEE ON REVENUE AND TAXATION

AMENDMENT PROPOSAL NUMBER 32

PROPOSED AMENDMENT

Repeal Section 180, which currently reads as follows:

Poll tax; act or ordinance levying any tax must specify purpose, for which alone money may be used.

The General Assembly may authorize the counties, cities or towns to levy a poll tax not exceeding one dollar and fifty cents per head. Every act enacted by the General Assembly, and every ordinance and resolution passed by any county, city, town or municipal board or local legislative body, levying a tax, shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	53
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.33

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS**

**George Street Boone, Chairman
Albert Quick, Vice Chairman
Judge Daniel Schneider
Representative Paul Clark
Senator Gus Sheehan
Judy Clabes**



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Minority Caucus Chairman

Helen Garrett
Majority Whip

Eugene P. Stuart
Minority Whip

LEGISLATIVE RESEARCH COMMISSION

State Capitol

Frankfort, Kentucky 40601

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September 1, 1987

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House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, KY 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

The Subcommittee on Bill of Rights and Elections was charged to review various sections of the Constitution and to assign priority rankings to suggested changes. These sections relate to the Bill of Rights, elections, officers, lotteries, duelling, treason, and constitutional revision.

The Subcommittee held four meetings between February 27 and June 17, 1987. Subcommittee members recognized the importance of the opinions of interested individuals and associations. The following were invited to recommend changes in, or additions to, the Bill of Rights:

1. Former Chief Justice Palmore
2. Chief Justice of the Kentucky Supreme Court
3. Chief Judge of the Kentucky Court of Appeals
4. President, Circuit Judges Association
5. President, Association of District Judges
6. Kentucky Attorney General
7. President, Kentucky Defense Counsel
8. President, Kentucky Academy of Trial Attorneys
9. Criminal Defense Attorneys' Association
10. Kentucky Public Advocate
11. President, County Attorneys' Association
12. President, Commonwealth's Attorneys Association
13. Department of Political Science, University of Kentucky

14. Department of Political Science, University of Louisville
15. A professor at Chase College of Law
16. Three professors at University of Kentucky College of Law
17. Lexington Herald Leader
18. Editor, Louisville Courier-Journal

Bill of Rights

The Subcommittee devoted substantial time to analysis and consideration of the Bill of Rights, the first twenty-six sections of the Constitution. Areas of concentration included issues of individual privacy, prosecution by information, the exclusionary rule, detention of material witnesses and electronic surveillance. In addition to examination of current constitutional provisions, applicable case law was considered, and an exhaustive survey was made of provisions of constitutions of other states.

The recommended changes are considered to be in keeping with the spirit of the current provisions and to reflect concern with contemporary social problems and technological developments, as well as clarification of such matters as references to gender.

The only recommended provision on which the voting approval was close was in reference to a limitation on the imposition of the death penalty.

Elections

The number of elections conducted in the state was discussed at length, and it is recommended that elections in odd-numbered years be eliminated. Since Kentucky holds both a primary and general election each year, annual election expenses are approximately \$4.5 million. The frequency of elections was believed to contribute to a voter turnout in Kentucky lower than that found in many other states.

The hope is that reducing the number of elections could cut costs while increasing citizen participation in the electoral process.

Officers

It was the consensus that the section placing a maximum limit of \$12,000 upon the compensation of public officers was long outmoded, not a constitutional matter, and should be repealed. Removal was considered desirable, since the limitations were long ago rendered ineffectual by court rulings which permit annual salary adjustments based upon changes in the consumer price index. Such limitation should be addressed by statute.

Section 234 now requires that public officers reside within their respective jurisdictions. The Subcommittee recommends that the General Assembly should control the residency requirements of appointed or employed officers, as distinguished from elected officials. This change would give the General Assembly more control over the large number of unelected employees who hold increasing authority.

Section 145 should be amended to permit the General Assembly to establish voting residency requirements, since the current provisions of the section have been held no longer effective because they are in conflict with the U. S. Constitution. Statutory provisions concerning residency do conform to the federal court decision but are thus in conflict with state constitutional standards.

Lotteries

The Subcommittee concluded that the issue of lottery should be addressed by the General Assembly. It recommends repeal of the current section prohibiting the establishment of a state lottery. The legislature should have the option either to prohibit or to establish a lottery and to designate the use of net proceeds.

Duelling

Current constitutional provisions concerning duelling reflect the era in which the Constitution was adopted. The Subcommittee recommends removal of such references, including the one which is presently included in the oath of office. It is suggested that the document incorporate the simple and dignified oath included in our 1799 Charter.

Priority

The Subcommittee recommends that the first priority be given to adding Bill of Rights sections relative to privacy, prosecution by information, and equality. Second priority should be assigned to the addition of the exclusionary rule and a death penalty provision. Other recommendations are considered important but of less urgency.

Very truly yours,

George Street Boone
Chairman
Subcommittee on Bill of Rights, Elections and Constitution
Commission on Constitutional Review

GSB/bcr

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 33

PROPOSED AMENDMENT

Amend Section 1 to add the following subsection:

“Eighth: The right to individual privacy is recognized and shall not be infringed without the showing of a compelling private or state interest.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	7
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.06

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 34

PROPOSED AMENDMENT

Amend Section 1 to add the following subsection:

“Ninth: The right to equality under the law shall not be denied or abridged by the state or any person or private entity on account of race, color, religion, national origin, gender, age, or physical or mental handicap, absent a compelling interest.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	5
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.00

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 35

PROPOSED AMENDMENT

Amend the Bill of Rights to add the following section:

“Prosecution by Information. Offenses shall be prosecuted either by information after examination and commitment by a judge, unless the examination be waived by the accused with the consent of the court, or by indictment, with or without such examination and commitment. The formation of the grand jury and the powers and duties thereof shall be prescribed by law.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	57%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	38%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	27
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.64

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 36

PROPOSED AMENDMENT

Amend the Bill of Rights to add the following section:

“Death Penalty. The penalty of death shall be imposed for intentional murder.”

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	52%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	43%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	33
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.75

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 37

PROPOSED AMENDMENT

Amend Section 10 to read as follows:

“The people shall be secure in their persons, houses, papers, and possessions from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation. Evidence obtained in violation of this section shall not be admissible in any court against any person.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	67%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	33%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	26
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.63

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 38

PROPOSED AMENDMENT

Amend Section 1 to refer to "Commonwealth" rather than "State."

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	62
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	4.12

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 39

PROPOSED AMENDMENT

Amend the Bill of Rights, Sections 1-26, so that gender references are neutral.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	54
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.35

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 40

PROPOSED AMENDMENT

Amend the Bill of Rights to add the following section:

“Material Witness. No person who may be a material witness in a criminal proceeding may be imprisoned on that ground, but such person may be detained for a reasonable period of time for questioning.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	57%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	29%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	40
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.92

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 41

PROPOSED AMENDMENT

Amend the Bill of Rights to add the following section:

“Electronic Surveillance. The people shall be secure in their persons, houses, papers and possessions from interception of telegraphic, telephonic, and other electronic means of communication, and from interception of oral and other communications by electric, electronic or mechanical means.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	57%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	33%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	32
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	2.73

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 42

PROPOSED AMENDMENT

Repeal Section 12, which currently reads as follows:

Indictable offense not to be prosecuted by information; exceptions.

No person, for an indictable offense, shall be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of court for oppression or misdemeanor in office.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	67%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	28%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	42
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.00

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 43

PROPOSED AMENDMENT

Amend Sections 95, 97, 99, and 148 to provide that elections shall be conducted in even-number years, except that constitutional state offices shall not be elected the year in which the president is elected.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	25
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.60

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 44

PROPOSED AMENDMENT

Amend Section 145 as follows to clarify the prohibition against voting by certain persons and empower the General Assembly to establish residency requirements:

“Every citizen of the United states of the age of eighteen years who is properly registered in a precinct shall be a voter in said precinct and not elsewhere but the following persons are excepted and shall not have the right to vote.

1. Persons convicted in any court of competent jurisdiction of treason, or felony, or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage, but persons hereby excluded may be restored to their civil rights by executive pardon.

2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.

3. Persons who have been determined to be insane or otherwise mentally incompetent by a court of competent jurisdiction.

Residency requirements shall be established by law.”

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review

86%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review

14%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

38

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

2.88

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 45

PROPOSED AMENDMENT

Repeal Section 146, which currently reads as follows:

Soldiers or sailors stationed in State are not residents.

No person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed within the same.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	50
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.26

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 46

PROPOSED AMENDMENT

Repeal Section 209, which currently reads as follows:

Railroad Commission; election, term and qualifications of Commissioners; Commissioners' districts; powers and duties; removal; vacancies.

A commission is hereby established, to be known as "The Railroad Commission," which shall be composed of three Commissioners. During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified. At the regular election in eighteen hundred and ninety-five and every four years thereafter the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next preceding his election. Any vacancy in this office shall be filled as provided in section 152 of this Constitution. The General Assembly may from time to time change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each District. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and, until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioners out of office by similar proceedings as in the case of Judges of the Court of Appeals; and the General Assembly shall enact laws to prevent the nonfeasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	95%
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Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
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Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	21
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Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.55
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SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 47

PROPOSED AMENDMENT

Repeal Section 226, which currently reads as follows:

Lotteries and gift enterprises forbidden.

Lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	12
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.22

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 48

PROPOSED AMENDMENT

Amend Section 228 as follows to remove dueling references from the oath of office:

"Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____ according to the law. The means of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the General Assembly the most solemn appeal to God or the conscience of the affiant"; repeal Section 232 to conform.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	30
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.69

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 49

PROPOSED AMENDMENT

Repeal Section 229, which currently reads as follows:

“Treason” defined; evidence necessary to convict.

Treason against the Commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of “1” indicates first priority, least priority is indicated by a ranking of “62.”)	59
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating “1.00” indicate high priority; index numbers approximating “5.00” indicate least priority.)	3.80

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 50

PROPOSED AMENDMENT

Amend Section 234 as follows to clarify that elected officers shall live in the jurisdiction from which elected and empower the General Assembly to place similar restrictions upon appointed officers:

"All elected officers for the State at large shall reside within the State, and all elected district, county, or city officers shall reside within the jurisdiction from which each shall have been elected and shall keep their offices at such places therein as may be required by law. The General Assembly may restrict the place of residence of those appointed or employed by the State or by a district, county or city."

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	15%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	42
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.00

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 51

PROPOSED AMENDMENT

Repeal Section 238, which currently reads as follows:

Discharge of sureties on officers' bonds.

The General Assembly shall direct by law how persons who now are, or may hereafter become, sureties for public officers, may be relieved of or discharged from suretyship.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	60
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	4.00

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 52

PROPOSED AMENDMENT

Repeal Section 239, which currently reads as follows:

Disqualification from office for presenting or accepting challenge to duel; further punishment.

Any person who shall, after the adoption of this Constitution, either directly or indirectly, give, accept or knowingly carry a challenge to any person or persons to fight in single combat, with a citizen of this State, with a deadly weapon, either in or out of the State, shall be deprived of the right to hold any office of honor or profit in this Commonwealth; and if said acts, or any of them, be committed within this State, the person or persons so committing them shall be further punished in such manner as the General Assembly may prescribe by law.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	54
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.35

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 53

PROPOSED AMENDMENT

Repeal Section 240, which currently reads as follows:

Pardon of person convicted of dueling.

The Governor shall have power, after five years from the time of the offense, to pardon any person who shall have participated in a duel as principal, second or otherwise, and to restore him to all the rights, privileges and immunities to which he was entitled before such participation. Upon presentation of such pardon the oath prescribed in section 228 shall be varied to suit the case.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 86%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review 5%

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 9%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 54

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 3.35

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 54

PROPOSED AMENDMENT

Repeal Section 245, which currently reads as follows:

Revision of statutes to conform to Constitution.

Upon the promulgation of this Constitution, the Governor shall appoint three persons, learned in the law, who shall be Commissioners to revise the statute laws of this Commonwealth, and prepare amendments thereto, to the end that the statute laws shall conform to and effectuate this Constitution. Such revision and amendments shall be laid before the next General Assembly for adoption or rejection, in whole or in part. The said Commissioners shall be allowed ten dollars each per day for their services, and also necessary stationery for the time during which they are actually employed; and upon their certificate the Auditor shall draw his warrant upon the Treasurer. They shall have the power to employ clerical assistants, at a compensation not exceeding ten dollars per day in the aggregate. If the Commissioners, or any of them, shall refuse to act, or a vacancy shall occur, the Governor shall appoint another or others in his or their place.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	90%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions,	58

however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

3.69

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 55

PROPOSED AMENDMENT

Repeal Section 246, which currently reads as follows:

Maximum limit on compensation of public officers.

No public officer or employe except the Governor, shall receive as compensation per annum for official services, exclusive of the compensation of legally authorized deputies and assistants which shall be fixed and provided for by law, but inclusive of allowance for living expenses, if any, as may be fixed and provided for by law, any amount in excess of the following sums: Officers whose jurisdiction or duties are coextensive with the Commonwealth, the mayor of any city of the first class, and Judges and Commissioners of the Court of Appeals, Twelve Thousand Dollars (\$12,000); Circuit Judges, Eight Thousand Four Hundred Dollars (\$8,400); all other public officers, Seven Thousand Two Hundred Dollars (\$7,200). Compensation within the limits of this amendment may be authorized by the General Assembly to be paid, but not retroactively, to public officers in office at the time of its adoption, or who are elected at the election at which this amendment is adopted. Nothing in this amendment shall permit any officer to receive, for the year 1949, any compensation in excess of the limit in force prior to the adoption of this amendment.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

10

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

2.18

SUBCOMMITTEE ON BILL OF RIGHTS/ELECTIONS

AMENDMENT PROPOSAL NUMBER 56

PROPOSED AMENDMENT

Amend Section 258 as follows to require a simple majority, rather than a constitutional majority, vote to call a constitutional convention and require that the Resolution specify the issues to be addressed.

“At least two-fifths of the members elected to each House of the General Assembly and a majority of the members voting may by a ye and nay vote, to be entered upon their respective journals, enact a law to take the sense of the people of the State as to the necessity and expediency of calling a Convention for the purpose of revising or amending this Constitution, and such amendments as may have been made to the same. Such law shall include a statement of the subjects to be considered, and no others shall be considered. The General Assembly shall then provide for having a poll opened in each voting precinct in this state by the officers provided by law for holding general elections at the next ensuing regular election to be held for State officers or members of the House of Representatives, which does not occur within ninety days from the final passage of such law, at which time and places the votes of the qualified voters shall be taken for and against calling the Convention, in the same manner provided by law for taking votes in other State elections. The vote for and against said proposition shall be certified to the Secretary of State by the same officers and in the same manner as in State elections. If it shall appear that a majority voting on the proposition was for calling a Convention, and if the total number of votes cast for the calling of the Convention is equal to one-fourth of the number of qualified voters who voted at the last preceding general election in this State, the Secretary of State shall certify the same to the General Assembly at its next regular session, at which session a law shall be enacted calling a Convention to readopt, revise or amend this Constitution, and such amendments as may have been made thereto.”

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review

81%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 19%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 37

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.86

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON LOCAL GOVERNMENT**

**Judge Mike Miller, Chairman
Henry Stephens, Vice Chairman
Ralph Ed Graves
Mayor Ann Latta
Terry Feathers
George Wilson**



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Charles W. Berger
Assistant President Pro Tem

Joe Wright
Majority Floor Leader

John D. Rogers
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Dr. Jack Trevey
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Helen Garrett
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Eugene P. Stuart
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LEGISLATIVE RESEARCH COMMISSION

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September 1, 1987

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Minority Whip

House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, KY 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

The Subcommittee on Local Government of the Commission on Constitutional Review was asked to review 28 sections of the Kentucky Constitution which affect the structure and function of Kentucky's local governments.

The Subcommittee completed its work after four meetings which were held between March 11 and June 3, 1987. At these meetings the Subcommittee felt that it was very important to solicit the advice and input of as many local government officials, groups, associations, related state agencies and similar legislative committees as possible.

Therefore, the following is a list of such organizations and groups which had representatives that appeared before the Subcommittee:

- (1) City of Louisville
- (2) Kentucky County Judge/Executive Association
- (3) Kentucky Department of Local Government
- (4) Kentucky Council of Area Development Districts
- (5) Kentucky State-Local Finance Office
- (6) Kentucky Supreme Court
- (7) Kentucky Association of Counties
- (8) Lexington-Fayette Urban County Government
- (9) Kentucky Municipal League
- (10) Jefferson County Intergovernmental Affairs Office
- (11) Kentucky Cabinet for Human Resources
- (12) Kentucky Municipal Law Center
- (13) Kentucky Transportation Center

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
Page 2
September 1, 1987

Also, the Subcommittee held a joint meeting with the Subcommittees on Constitutional Revision of the Interim Joint Committees on Cities and Counties and Special Districts.

Of the twenty-eight sections of the Constitution which were reviewed by the Subcommittee, eleven sections are recommended for amendment, ten for deletion and seven are recommended to remain unchanged.

The group specifically recommends that Sections 64, 99, 100, 103, 106, 156, 160, 161, 165, 168 and 227 be amended. These sections primarily deal with the basic organizational structure of counties and cities. The Subcommittee in its final report very strongly urged that Kentucky's Constitution be amended to include basic definitions of what constitutes city and county governments. They feel it is important that minimum organizational standards be established for local governments (Sections 99, 156 & 160). But equally important is the ability of local governments to merge services and functions or even provide for alternative forms of local government.

In addition, the Subcommittee proposes that constitutional references to the county surveyor, constables, tax assessors and justices of the peace be repealed (Section 99), thus eliminating these constitutional offices from the county payrolls where some still exist. They also recommend that the current municipal classification system be deleted and replaced at the discretion of the General Assembly (Section 156). The Subcommittee throughout their report also strongly supports giving the General Assembly constitutional authority to prescribe the "details" for the operation of local governments such as minimum and maximum tax and bonded indebtedness rates, etc. (Sections 157 & 158 which were not assigned to this Subcommittee).

The Subcommittee, as mentioned before, also recommends the deletion of Sections 61, 101, 102, 104, 105, 140, 142, 144, 166 and 167 from the Constitution. While Sections 61, 166 and 167 deals with municipal government, Sections 101-144 deal with individual county offices and the fiscal court. The deletion of many of these sections is based upon the incorporation of their provisions into other amended sections of the Constitution.

The sections of the Constitution for which the Subcommittee recommends no changes (Sections 63, 65, 107, 108, 162, 163 and 164) primarily outline the basic structure and function of county government and the franchising authority of cities. The Subcommittee again strongly feels the need for the Constitution to outline only the very basic functions of local governments.

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
Page 3
September 1, 1987

In addition to their previously noted recommendations, the Subcommittee wishes to convey the following additional remarks to the General Assembly for their consideration:

1. Any revision of the constitutional sections relating to local governments could be done in 1 or 2 comprehensive proposals.
2. Home Rule authority for cities and counties should be recognized by the Constitution.
3. The ability to create alternative forms of government through the charter process should be constitutionally recognized.
4. The ability of cities and counties to merge or enact interlocal agreements should be encouraged and the process "streamlined" as much as possible.
5. Some limited form of sovereign immunity for cities and all local government officials should be granted in the Constitution.
6. The ability of local governments to raise revenues by any method not prohibited by statute should be recognized. Therefore, those sections of the Constitution which limit the revenue raising capabilities of local governments should be deleted.

Respectfully submitted,

Judge Mike Miller, Chairman
Subcommittee on Local Government

MM:cw

SUBCOMMITTEE ON LOCAL GOVERNMENT

PROPOSAL NUMBER 57

PROPOSED AMENDMENT

Repeal Section 61, which currently reads as follows:

Provision to be made for local option on sale of liquor; time of elections.

The General Assembly shall, by general law, provide a means whereby the sense of the people of any county, city, town, district or precinct may be taken, as to whether or not spirituous, vinous or malt liquors shall be sold, bartered or loaned therein, or the sale thereof regulated. But nothing herein shall be construed to interfere with or to repeal any law in force relating to the sale or gift of such liquors. All elections on this question may be held on a day other than the regular election days.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	57%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	29%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	42
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.00

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 58

PROPOSED AMENDMENT

Amend Section 64 to remove the 12,000 persons population requirements for the creation of new counties to allow for easier merger of counties and provide for the appointment of officials in new counties. Also, insert language to require the General Assembly to provide all local governments with the option of merger or the formation of alternative forms of government subject to local referendum. Repeal Section 102 and Section 105 to conform.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	95%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	14
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.25

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 59

PROPOSED AMENDMENT

Amend Section 99 to:

a) Expand the section into a series of subsections to outline the structure and function of county government;

b) Define the fiscal court composed of the county judge/executive and magistrates/commissioners as the basic form of county government unless an alternative form is chosen by local referendum;

c) Enumerate in the Constitution only the offices of county judge/executive, magistrates/commissioners, county clerk, county attorney, sheriffs, jailers and coroners; and

d) Delete Sections 101 (constables) and 104 (assessors) because of obsolete language created by this section.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 100%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 17

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.35

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 60

PROPOSED AMENDMENT

Amend Section 100 to require that all candidates for county office be 21 years old, a resident of the state and county and authorize the General Assembly to establish additional qualifications for county office.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	95%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	39
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.89

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 61

PROPOSED AMENDMENT

Amend Section 103 to require bonds only of those officials set out in Section 99 and all officials elected under any alternative forms of government.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	45
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.07

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 62

PROPOSED AMENDMENT

Amend Section 106 to abolish the fee system for county officers and provide the authority for counties to establish salaries commensurate with duties and available funds.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 100%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 25

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 2.60

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 63

PROPOSED AMENDMENT

Repeal the following sections, which currently read as follows:

Section 140 *County Court for each county; Judge; compensation; commission; removal.*

There shall be established in each county now existing, or which may be hereafter created, in this State, a Court, to be styled the County Court, to consist of a Judge, who shall be a conservator of the peace, and shall receive such compensation for his services as may be prescribed by law. He shall be commissioned by the Governor, and shall vacate his office by removal from the county in which he may have been elected.

Section 142 *Justices' districts; one Justice for each district; jurisdiction and powers of Justices; commissions; removal.*

Each county now existing, or which may hereafter be created, in this State, shall be laid off into districts in such manner as the General Assembly may direct; but no county shall have less than three nor more than eight districts, in each of which districts one Justice of the Peace shall be elected as provided in section 99. The General Assembly shall make provisions for regulating the number of said districts from time to time within the limits herein prescribed, and for fixing the boundaries thereof. The jurisdiction of Justices of the Peace shall be co-extensive with the county, and shall be equal and uniform throughout the State. Justices of the Peace shall be conservators of the peace. They shall be commissioned by the Governor, and shall vacate their offices by removal from the districts, respectively, in which they may have been elected.

Section 144 *Fiscal Court for each county; to consist of Justices of the Peace or Commissioners, and County Judge; quorum.*

Counties shall have a Fiscal Court, which may consist of the Judge of the County Court and the Justices of the Peace, in which Court the Judge of the County Court shall preside, if present; or a county may have three commissioners, to be elected from the county at large, who, together with the Judge of the County Court, shall constitute the Fiscal Court. A majority of the members of said Court shall constitute a Court for the transaction of business. But where, for county governmental purposes, a city is by law separated from the remainder of the county, such Commissioners may be elected from the part of the county outside of such city.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	32
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.73

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 64

PROPOSED AMENDMENT

Amend Section 156 to:

- a) Delete the municipal classification system;*
- b) Authorize the General Assembly to prescribe the structure and function of municipal governments;*
- c) Define what constitutes a city; and*
- d) Require the General Assembly to provide alternative forms of government by merger or reorganization subject to local referendum.*

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	11
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.20

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 65

PROPOSED AMENDMENT

Amend Section 160 to remove references to:

- a) *"Bi-cameral legislative bodies";*
- b) *"Appointment of city officials in cities of the 4th-6th classes";*
and
- c) *Limits on the number of successive terms of office for mayors.*

This would result in uni-cameral legislative bodies, the election of all city officials and unlimited terms of office for mayors in all sizes of cities.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	23
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.56

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 66

PROPOSED AMENDMENT

Amend Section 161 to require that the maximum allowable compensation for all local officials be determined by the General Assembly with provisions for annual cost of living adjustments.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	35
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.81

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 67

PROPOSED AMENDMENT

Amend Section 165 to allow participation by city officials and employees as ex-officio members on state advisory boards or commissions.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	90%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	51
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.28

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 68

PROPOSED AMENDMENT

Repeal Section 166 because of obsolete language which was a grandfather provision for the introduction of the 1891 Constitution. Section 166 currently reads as follows:

Expiration of city charters granted prior to Constitution.

All acts of incorporation of cities and towns heretofore granted, and all amendments thereto, except as provided in section 167, shall continue in force under this Constitution, and all City and Police Courts established in any city or town shall remain, with their present powers and jurisdictions, until such time as the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof; but not longer than four years from and after the first day of January, one thousand eight hundred and ninety-one, within which time the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof, as provided in this Constitution.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	81%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions,	56

however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

3.47

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 69

PROPOSED AMENDMENT

Repeal Section 167, thus leaving the discretion for regulation of municipal elections to the General Assembly. Section 167 currently reads as follows:

Time of election of city officers and Police Judges; election years.

All city and town officers in this State shall be elected or appointed as provided in the charter of each respective town and city, until the general election in November, eighteen hundred and ninety-three, and until their successors shall be elected and qualified, at which time the terms of all such officers shall expire; and at that election, and thereafter as their terms of office may expire, all officers required to be elected in cities and towns by this Constitution, or by general laws enacted in conformity to its provisions, shall be elected at the general elections in November; but only in the odd years, except members of municipal legislative boards, who may be elected either in the even or odd years, or part in the even and part in the odd years: Provided, That the terms of office of Police Judges, who were elected for four years at the August election, eighteen hundred and ninety, shall expire August thirty-first, eighteen hundred and ninety-four, and the terms of Police Judges elected in November, eighteen hundred and ninety-three, shall begin September first, eighteen hundred and ninety-four, and continue until the November election, eighteen hundred and ninety-seven, and until their successors are elected and qualified.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	9%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")

48

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)

3.17

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 70

PROPOSED AMENDMENT

Amend Section 168 to require that the ordinances of both cities and counties have no less penalty than statutes.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 76%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 24%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 44

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 3.06

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 71

PROPOSED AMENDMENT

Amend Section 227 to establish criteria for the removal from office of all local government officials.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	52
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.29

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 72

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution which provides "home rule" authority for all local governments.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	4%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	16
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.31

SUBCOMMITTEE ON LOCAL GOVERNMENT

AMENDMENT PROPOSAL NUMBER 73

PROPOSED AMENDMENT

Create a new section of the Kentucky Constitution to provide some limited form of sovereign immunity for cities and all other local government officials.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	76%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	19%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	5%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	5
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.00

**RECOMMENDATIONS OF THE
SUBCOMMITTEE ON PRIVATE CORPORATIONS**

**Senator David Williams, Chairman
Representative Bill Lile, Vice Chairman
Charlie Head
John Clarke
Claud Hall
James Hinton**



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September 1, 1987

House Speaker Donald J. Blandford
Senate President Pro Tem John A. Rose
Members, Legislative Research Commission
State Capitol
Frankfort, KY 40601

Dear Speaker Blandford, President Pro Tem Rose, and Members,
Legislative Research Commission:

The Subcommittee on Private Corporations of the Commission on Constitutional Review was charged with the task of reviewing and making prioritized recommendations concerning Sections 190 through 218 of the Constitution of Kentucky. These constitutional sections pertain to regulation of corporations, railroads, common carriers generally, and public utilities.

The work of the Subcommittee on Private Corporations was conducted during four meetings held between March 13 and June 3, 1987. The Subcommittee felt it important that its meetings be well publicized and that interested parties, associations, and groups be invited to freely participate in Subcommittee activity. Consequently, the following organizations and institutions received invitations to offer input:

- (a) Kentucky Bar Association
- (b) Louisville Bar Association
- (c) Fayette County Bar Association
- (d) Chase College of Law
- (e) University of Louisville School of Law
- (f) University of Kentucky College of Law
- (g) Kentucky Chamber of Commerce
- (h) Louisville Chamber of Commerce
- (i) Lexington Chamber of Commerce
- (j) Kentucky Railroad Commission
- (k) Kentucky Transportation Cabinet

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Two

- (l) Kentucky Department of Energy
- (m) CSX Transportation
- (n) Norfolk-Southern Railroad
- (o) Paducah and Louisville Railroad
- (p) United Transportation Union
- (q) Brotherhood of Locomotive Engineers
- (r) Kentucky Household Goods Carriers

A number of participants were of particular help to the Subcommittee in the formulation of recommendations, and their efforts merit recognition. Special thanks are extended to Professor Robert L. Seaver of the Salmon P. Chase College of Law. Professor Seaver was responsible for preparing a detailed analysis of provisions within the constitutions of other states relating to corporations. Also offering continued and valuable assistance was Mr. Keith P. Hanley, an attorney with the firm of Brown, Todd & Heyburn and chairman of the Model Business Corporation Act Revision Committee. Mr. Hanley educated Subcommittee members concerning problems encountered in the reconciliation of constitutional corporate provisions and statutory regulation of corporations, both existing and proposed.

Two participants provided the Subcommittee with valuable information regarding federal preemption of state regulation of the railroad industry. The efforts of Mr. Stephen Reeder, General Counsel for the Kentucky Transportation Cabinet, and Mr. Lyle Key, Senior General Attorney for CSX Transportation, Inc., are appreciated.

The Kentucky Railroad Commission declined to participate in any activity of the Subcommittee on Private Corporations.

Corporations

Of those twenty-nine sections of the Kentucky Constitution assigned for review by the Subcommittee, thirteen deal specifically with the regulation of corporations (§§ 190-195, 198, 200, 202, 203, 205, 207, and 208). Our Constitution, the product of the constitutional convention of 1890-91, is typical of state constitutions drafted toward the turn of the century in its detailed regulation of what was then a newly powerful arm of business. Records of the constitutional debates evidence extreme caution as the mood of the delegates. Great care was taken to protect the citizens of the state from unscrupulous behavior by corporations, especially out-of-state enterprises. The legislative branch was suspect, as well, and most of

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Three

the delegates felt that only constitutional provisions could supply the needed reform in the area of corporate growth and power. This distrust of the legislature pervades the entire Constitution and is reflected again and again in sections which deal with areas, such as the regulation of business activity, which are typically statutorily regulated.

As the corporate form of doing business has over the years emerged predominant, extensive and complex state regulation of the corporate existence has become necessary and is indeed the norm. The Model Business Corporations Act (MBCA), initially proposed by the American Bar Foundation, is a uniform law which makes up the basis of corporate statutes in a majority of states. Use of the MBCA as a guide for state legislation is deemed beneficial in that it lends a degree of national uniformity to the regulation of business activity that is increasingly interstate in character. This uniformity flows to judicial interpretation of statutes as well as the wording of the law itself. Kentucky statutory corporate regulation, contained in KRS Chapter 271A and enacted in 1972, is based upon the MBCA and amendments thereto.

It is the finding of the Subcommittee on Private Corporations that corporate sections of the Kentucky Constitution are truly statutory in nature. Further, the majority of subjects treated by these sections are concurrently treated by statute within KRS Chapter 271A. The Subcommittee, in fact, identified a number of potential conflicts between particular and relevant existing statutes or provisions of the MBCA. The foremost of these are as follows:

- (a) Constitution Section 207 requires cumulative voting for directors in all instances. It has been asserted that this provision might be read as prohibiting classification of directors allowable under KRS 271A.180, and the filling of vacancies in the office of director by the remaining directors allowable under KRS 271A.190.
- (b) Constitutional Section 192 provides for escheat of corporate real property held longer than five years where such holdings are not necessary for carrying on the legitimate business of the corporation, as expressly authorized by its charter. KRS 271A.270, however, envisions and allows a general corporate purpose to be stated as including the transaction of "any or all lawful business." Such a general purpose might include the holding of real property for speculation. Although the escheat provision is rarely invoked, its existence in such a situation is worrisome.

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Four

- (c) Constitutional Section 193 requires that corporate stocks or bonds only be issued for money paid, labor done, or property received. This requirement is more restrictive than the provision relative to consideration for shares found in the MBCA. Section 6.21 of the MBCA also allows stock issuance in return for promissory notes and future services. As a result, the relevant Kentucky statute, KRS 271A.095, tracks our state constitutional language, deviating from suggested uniform language in a more restrictive manner.

The Subcommittee additionally finds that there is a danger to the future economic climate of the Commonwealth found in the practice of including corporate regulatory material that is statutory in character within the state constitution. Such a practice greatly reduces Kentucky's ability to quickly adapt to changing corporate and business practices and methods of business regulation. The lack of flexibility in this area could cause Kentucky to lose desirability as a prospective corporate domicile.

Common Carriers and Public Utilities

Fourteen constitutional sections assigned for review by the Subcommittee concern common carriers and public utilities (§§ 196, 197, 199, 201, and 209-218). Ten of those sections relate to railroads with particularity (§§ 209-218). It is the finding of the Subcommittee that the material contained in these sections is distinctly statutory in character. The Subcommittee also has determined that much of the regulatory content has been preempted by federal law.

The need for and ability of individual states to regulate the railroad industry has been virtually eliminated through federal preemption. In 1978 the Interstate Commerce Act (Pub. L. 95-473, October 17, 1978) finally vested all authority over interstate rail rates and tariffs in the Interstate Commerce Commission. In 1980 the Staggers Rail Act (Pub. L. 96-448, October 14, 1980) gave preemptive authority over intrastate rail rates to the Interstate Commerce Commission. The Staggers Act did, however, provide that a state may continue to exercise jurisdiction over intrastate rail transportation only: (1) if it does so exclusively in accordance with the standards and procedures of the Interstate Commerce Commission; (2) if the state regulatory commission has obtained certification from the ICC that the state is implementing standards and procedures which are in accord with the ICC's own practice [(49 USC Sec. 11501(b)(3)(A))]; and (3) if any rail carrier aggrieved by state action may petition the ICC to review the decision of the state authority on the grounds that the standards and procedures employed by the state were not in accordance with the provisions of the act [(49 USC Sec. 11501(c))].

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Five

Thus, the Staggers Rail Act preempts all state jurisdiction over general rate increases and prohibits the state from exercising any jurisdiction over intrastate rail transportation unless it does so exclusively in accordance with the provision of the Act, as determined by the Interstate Commerce Commission. Should Kentucky, through a state agency, seek to exercise any significant jurisdiction in the area of rail rates, it could do so only as the state funded arm of the Interstate Commerce Commission [(See *Kentucky Utilities Company v. Interstate Commerce Commission*, 721 F.2d 537 (6th Cir. 1983))].

Similarly, the Federal Railroad Safety Act of 1970 (Public Law 91-458, October 16, 1970) resulted in regulatory and enforcement authority for rail safety being placed under the purview of the United States Secretary of Transportation (45 U.S.C. Section 431 and Section 432). Like the Staggers Act, the Safety Act contains provisions which allow a state regulatory authority to continue to regulate rail safety if it so desires as long as the state regulation is not incompatible with federal rail safety guidelines and the state regulatory agency has been certified by the United States Secretary of Transportation (45 U.S.C. Section 434 and Section 435). However, the United States Secretary of Transportation retains final enforcement authority [(45 U.S.C. Section 435(a))]. If a state does not elect to provide state enforcement of the federal program, then the federal government will enforce the federal safety standards.

This description of federal preemption of state regulation of the railroad industry points to the folly of including provisions that are purely statutory in character within a state constitutional document. Such provisions obviously resist convenient amendment and are prone to obsolescence. Such is the case with Kentucky constitutional provisions governing railroads.

In making a recommendation concerning sections pertaining to railroads, the Subcommittee paid particular attention to Section 209, which establishes the Kentucky Railroad Commission and defines its duties. Testimony before the Subcommittee revealed that because of preemptive federal regulation of rail rates, tariffs and safety, Railroad Commission activity today has been relegated almost exclusively to railroad crossing related matters. Upon hearing of a crossing which may be in need of some repair, the Commission places the matter upon its docket. The railroad named responsible for the crossing by the Commission is then required to present evidence concerning the crossing at the Commission's hearing. The Commission has attempted to issue orders requiring railroads to take action concerning particular crossings. It seems, however, that responsibility for crossing maintenance is vested in the Transportation Cabinet, which participates in a federally funded program to improve crossing safety through the Highway Safety Act of 1973. Prioritization schedules for crossing improvement have been created by the cabinet as per federal regulation. It has been alleg-

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Six

ed that any enforcement of Railroad Commission orders regarding the improvement of particular crossings would run afoul of the federally mandated prioritization schedule and the requirement that the program be administered by the Transportation Cabinet, thereby jeopardizing federal funding.

The Subcommittee finds that the purpose and duties of the Railroad Commission are in disarray. It may be that the Commission or one similar in makeup could perform a useful service to Kentucky involving issues of highway or rail safety not federally preempted. The determination of such a body's composition and function should, however, be made by the legislature. Repeal of constitutional Section 209 would grant the legislature the flexibility to make that determination based upon the real and changing needs of Kentucky. It should be noted that such a repeal of Section 209 would not automatically abolish the Railroad Commission, but would cause it to be available for complete legislative scrutiny.

Sections 199 and 201 of the Constitution concern public utilities and pertain specifically to cooperation and competition among and between utility companies. Issues of federal preemption in regard to the interstate character and operation of such companies are again applicable. A major source of such preemption is the Federal Communications Act of 1934 as amended. The Subcommittee finds these sections also to be overtly statutory in character. Such regulatory material within the Constitution seems particularly inappropriate in an age of seemingly endless advances in the fields of communications and energy technologies and product delivery systems. Flexibility in regulatory possibilities may be best achieved through unbridled legislative jurisdiction over the operation of public utilities.

Miscellaneous Sections

Two constitutional sections pertaining to miscellaneous subjects were assigned for Subcommittee review. Section 204 concerns the liability of bank officers knowingly receiving deposits for an insolvent bank. The Subcommittee finds this Section to be statutory in character and deserving of repeal. Section 206 provides that public warehouses are subject to legislative control. The Subcommittee finds that the general legislative power vested in the General Assembly by constitutional Section 29 is inclusive of the authority prescribed by Section 206.

Four proposed amendments follow this introduction. The Subcommittee would allocate first priority to the amendment pertaining to corporations. Second priority would be assigned to the proposal regarding common carriers and public utilities. Lesser or third

Speaker Blandford,
President Pro Tem Rose,
Members, Legislative Research Commission
September 1, 1987
Page Seven

priority would fall to amendment suggestions concerning bank officers and public warehouses. The Subcommittee would suggest, however, that all four proposals could be grouped for ballot purposes as a single amendment under the subject of "commerce."

Respectfully submitted,

State Senator David L. Williams
Chairman
Subcommittee on Private Corporations
Commission on Constitutional Review

DLW:rs/r

SUBCOMMITTEE ON PRIVATE CORPORATIONS

AMENDMENT PROPOSAL NUMBER 74

PROPOSED AMENDMENT

Create a new section of the Constitution of Kentucky to read as follows:

“The General Assembly shall provide by general law for the formation, organization, and regulation of corporations and prescribe their powers, rights, duties and liabilities, and the powers, rights, duties and liabilities of their officers and stockholders or members.”

Repeal Sections 190-195, 198, 200, 202, 203, 205, 207, and 208, which currently read as follows:

Section 190 Corporations must accept Constitution.

No corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution.

Section 191 Unexercised charters granted prior to Constitution revoked.

All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place, and business been commenced in good faith at the time of the adoption of this Constitution, shall thereafter be void and of no effect.

Section 192 Corporations restricted to charter authority; holding of real estate limited.

No corporation shall engage in business other than that expressly authorized by its charter, or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate, except such as may be proper and necessary for carrying on its legitimate business, for a longer period than five years, under penalty of escheat.

Section 193 Stock or bonds to be issued only for money or for property or labor at market value; watered stock void.

No corporation shall issue stock or bonds, except for an equivalent in money paid or labor done, or property actually received and applied to

the purposes for which such corporation was created, and neither labor nor property shall be received in payment of stock or bonds at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of stock or indebtedness shall be void.

Section 194 *Corporations to have place of business and process agent in State.*

All corporations formed under the laws of this State, or carrying on business in this State, shall, at all times, have one or more known places of business in this State, and an authorized agent or agents there, upon whom process may be executed, and the General Assembly shall enact laws to carry into effect the provisions of this section.

Section 195 *Corporation property subject to eminent domain; corporations not to infringe upon individuals.*

The Commonwealth, in the exercise of the right of eminent domain, shall have and retain the same powers to take the property and franchises of incorporated companies for public use which it has and retains to take the property of individuals, and the exercise of the police powers of this Commonwealth shall never be abridged nor so construed as to permit corporations to conduct their business in such manner as to infringe upon the equal rights of individuals.

Section 198 *Trusts and combinations in restraint of trade to be prevented.*

It shall be the duty of the General Assembly from time to time, as necessity may require, to enact such laws as may be necessary to prevent all trusts, pools, combinations or other organizations, from combining to depreciate below its real value any article, or to enhance the cost of any article above its real value.

Section 200 *Domestic corporation consolidating with foreign does not become foreign.*

If any railroad, telegraph, express, or other corporation, organized under the laws of this Commonwealth, shall consolidate by sale or otherwise, with any railroad, telegraph, express or other corporation organized under the laws of any other State, the same shall not thereby become a foreign corporation, but the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this State in all matters which may arise, as if said consolidation had not taken place.

Section 202 Foreign corporations not to be given privileges over domestic.

No corporation organized outside the limits of this State shall be allowed to transact business within the State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this Commonwealth.

Section 203 Liabilities under corporate franchise not released by lease or alienation.

No corporation shall lease or alienate any franchise so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

Section 205 Forfeiture of corporate charters in case of abuse or detrimental use.

The General Assembly shall, by general laws, provide for the revocation or forfeiture of the charters of all corporations guilty of abuse or misuse of their corporate powers, privileges or franchises, or whenever said corporations become detrimental to the interest and welfare of the Commonwealth or its citizens.

Section 207 Cumulative voting for directors of corporations; proxies.

In all elections for directors or managers of any corporation, each shareholder shall have the right to cast as many votes in the aggregate as he shall be entitled to vote in said company under its charter, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates, and such directors or managers shall not be elected in any other manner.

Section 208 "Corporation" includes joint stock company or association.

The word "corporation" as used in this Constitution shall embrace joint stock companies and associations.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review 86%

Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review

Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review 14%

Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.") 4

Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.) 1.83

SUBCOMMITTEE ON PRIVATE CORPORATIONS

AMENDMENT PROPOSAL NUMBER 75

PROPOSED AMENDMENT

Create a new section of the Constitution of Kentucky to read as follows:

“The General Assembly shall provide for appropriate regulation of common carriers and public utilities as and to the extent required by the public interest.”

Repeal Sections 196, 197, 199, 201, and 209-218, which currently read as follows:

Section 196 Regulation of common carriers; no relief from common law liability.

Transportation of freight and passengers by railroad, steamboat or other common carrier, shall be so regulated, by general law, as to prevent unjust discrimination. No common carrier shall be permitted to contract for relief from its common law liability.

Section 197 Free passes or reduced rates to officers forbidden.

No railroad, steamboat or other common carrier, under heavy penalty to be fixed by the General Assembly, shall give a free pass or passes, or shall, at reduced rates not common to the public, sell tickets for transportation to any State, district, city, town or county officer, or member of the General Assembly, or Judge; and any State, district, city, town or county officer, or member of the General Assembly, or Judge, who shall accept or use a free pass or passes, or shall receive or use tickets or transportation at reduced rates not common to the public, shall forfeit his office. It shall be the duty of the General Assembly to enact laws to enforce the provisions of this section.

Section 199 Telegraph and telephone companies; right to construct lines; exchange of messages.

Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and said companies shall receive and transmit each other's messages without unreasonable delay or discrimination, and all

such companies are hereby declared to be common carriers and subject to legislative control. Telephone companies operating exchanges in different towns or cities, or other public stations, shall receive and transmit each other's messages without unreasonable delay or discrimination. The General Assembly shall, by general laws of uniform operation, provide reasonable regulations to give full effect to this section. Nothing herein shall be construed to interfere with the rights of cities or towns to arrange and control their streets and alleys, and to designate the places at which, and the manner in which, the wires of such companies shall be erected or laid within the limits of such city or town.

Section 201 Public utility company not to consolidate with, acquire or operate competing or parallel system; common carriers not to share earnings with one not carrying; telephone companies excepted under certain conditions.

No railroad, telegraph, telephone, bridge or common carrier company shall consolidate its capital stock, franchises or property, or pool its earnings, in whole or in part, with any other railroad, telegraph, telephone, bridge or common carrier company owning a parallel or competing line or structure, or acquire by purchase, lease or otherwise, any parallel or competing line or structure, or operate the same; nor shall any railroad company or other common carrier combine or make any contract with the owners of any vessel that leaves or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying: Provided, however, That telephone companies may acquire by purchase or lease, or otherwise, and operate, parallel or competing exchanges, lines and structures, and the property of other telephone companies, if the Railroad Commission or such other State commission as may have jurisdiction over such matters shall first consent thereto, and if, further, each municipality wherein such property or any part thereof is located shall also first consent thereto as to the property within its limits, but under any such acquisition and operation toll line connections with the property so acquired shall be continued and maintained under an agreement between the purchasing company and the toll line companies then furnishing such service, and in the event they are unable to agree as to the terms of such an agreement the Railroad Commission or such other State commission as may have jurisdiction over such matters, shall fix the term of such agreement.

Section 209 Railroad Commission; election, term and qualifications of Commissioners; Commissioners' districts; powers and duties; removal; vacancies.

A commission is hereby established, to be known as "The Railroad Commission," which shall be composed of three Commissioners. During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified. At the regular election in eighteen hundred and ninety-five and every four years thereafter the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next preceding his election. Any vacancy in this office shall be filled as provided in section 152 of this Constitution. The General Assembly may from time to time change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each District. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and, until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioners out of office by similar proceedings as in the case of Judges of the Court of Appeals; and the General Assembly shall enact laws to prevent the nonfeasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

Section 210 Common carrier corporation not to be interested in other business.

No corporation engaged in the business of common carrier shall, directly or indirectly, own, manage, operate, or engage in any other business than that of a common carrier, or hold, own, lease or acquire, directly or indirectly, mines, factories or timber, except such as shall be necessary to carry on its business, and the General Assembly shall enact laws to give effect to the provisions of this section.

Section 211 Foreign railroad corporation may not condemn or acquire real estate.

No railroad corporation organized under the laws of any other State, or of the United States, and doing business, or proposing to do business, in this State, shall be entitled to the benefit of the right of eminent domain or have power to acquire the right of way or real estate for depot or other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this Commonwealth.

Section 212 Rolling stock, earnings and personal property of railroads subject to execution or attachment.

The rolling stock and other movable property belonging to any railroad corporation or company in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals. The earnings of any railroad company or corporation, and choses in action, money and personal property of all kinds belonging to it, in the hands, or under the control, of any officer, agent or employee of such corporation or company, shall be subject to process of attachment to the same extent and in the same manner, as like property of individuals when in the hands or under the control of other persons. Any such earnings, choses in action, money or other personal property may be subjected to the payment of any judgment against such corporation or company, in the same manner and to the same extent as such property of individuals in the hands of third persons.

Section 213 Railroad companies to handle traffic with connecting carriers without discrimination.

All railroad, transfer, belt lines and railway bridge companies organized under the laws of Kentucky, or operating, maintaining or controlling any railroad, transfer, belt lines or bridges, or doing a railway business in this State, shall receive, transfer, deliver and switch empty or loaded cars, and shall move, transport, receive, load or unload all the freight in car loads or less quantities, coming to or going from any railroad, transfer, belt line, bridge or siding thereon, with equal promptness and dispatch, and without any discrimination as to charges, preference, drawback or rebate in favor of any person, corporation, consignee or consignor, in any matter as to payment, transportation, handling or delivery; and shall so receive, deliver, transfer and transport all freight as above set forth, from and to any point where there is a physical connection between the tracks of said companies. But this section shall not be construed as requiring any such common carrier to allow the use of its tracks for the trains of another engaged in like business.

Section 214 Railroad not to make exclusive or preferential contract.

No railway, transfer, belt line or railway bridge company shall make any exclusive or preferential contract or arrangement with any individual, association or corporation, for the receipt, transfer, delivery, transportation, handling, care or custody of any freight, or for the conduct of any business as a common carrier.

Section 215 Freight to be handled without discrimination.

All railway, transfer, belt lines or railway bridge companies shall receive, load, unload, transport, haul, deliver and handle freight of the same class for all persons, associations or corporations from and to the same points and upon the same conditions, in the same manner and for the same charges, and for the same method of payment.

Section 216 Railroad must allow tracks of others to cross or unite.

All railway, transfer, belt lines and railway bridge companies shall allow the tracks of each other to unite, intersect and cross at any point where such union, intersection and crossing is reasonable or feasible.

Section 217 Penalties for violating 213, 214, 215 or 216; Attorney-General to enforce.

Any person, association or corporation, willfully or knowingly violating any of the provisions of sections 213, 214, 215, or 216, shall, upon conviction by a court of competent jurisdiction, for the first offense be fined two thousand dollars; for the second offense, five thousand dollars; and for the third offense, shall thereupon, ipso facto, forfeit its franchises, privileges or charter rights; and if such delinquent be a foreign corporation, it shall, ipso facto, forfeit its right to do business in this State; and the Attorney-General of the Commonwealth shall forthwith, upon notice of the violation of any of said provisions, institute proceedings to enforce the provisions of the aforesaid sections.

Section 218 Long and short hauls.

It shall be unlawful for any person or corporation, owning or operating a railroad in this State, or any common carrier, to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of property of like kind, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, or person or corporation, owning or operating a railroad in

this State, to receive as great compensation for a shorter as for a longer distance: Provided, That upon application to the Railroad Commission, such common carrier, or person or corporation owning or operating a railroad in this State, may in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers, or property; and the Commission may, from time to time, prescribe the extent to which such common carrier, or person or corporation, owning or operating a railroad in this State, may be relieved from the operation of this section.

**COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987**

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	86%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	13
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	2.24

SUBCOMMITTEE ON PRIVATE CORPORATIONS

AMENDMENT PROPOSAL NUMBER 76

PROPOSED AMENDMENT

Repeal Section 204, which currently reads as follows:

Bank officer liable for receiving deposit for insolvent bank.

Any President, Director, Manager, Cashier or other officer of any banking institution or association for the deposit or loan of money, or any individual banker, who shall receive or assent to the receiving of deposits after he shall have knowledge of the fact that such banking institution or association or individual banker is insolvent, shall be individually responsible for such deposits so received, and shall be guilty of felony and subject to such punishment as shall be prescribed by law.

COMMISSION MEMBER SUPPORT:
COMPILATION OF RESPONSES TO THE SURVEY BALLOT
OF THE COMMISSION ON CONSTITUTIONAL REVIEW
OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	71%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	15%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	14%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	54
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.35

SUBCOMMITTEE ON PRIVATE CORPORATIONS

AMENDMENT PROPOSAL NUMBER 77

PROPOSED AMENDMENT

Repeal Section 206, which currently reads as follows:

Warehouses subject to legislative control; inspection; protection of patrons.

All elevators or storehouses, where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses, subject to legislative control, and the General Assembly shall enact laws for the inspection of grain, tobacco and other produce, and for the protection of producers, shippers and receivers of grain, tobacco and other produce.

COMMISSION MEMBER SUPPORT: COMPILATION OF RESPONSES TO THE SURVEY BALLOT OF THE COMMISSION ON CONSTITUTIONAL REVIEW OF JULY, 1987

Percentage of member responses favoring inclusion of this proposal in the final report of the Commission on Constitutional Review	62%
Percentage of member responses opposing inclusion of this proposal in the final report of the Commission on Constitutional Review	10%
Percentage of member responses indicating no opinion concerning inclusion of this proposal in the final report of the Commission on Constitutional Review	28%
Priority ranking of this amendment as determined from response to the survey ballot. (This report contains seventy-seven amendment proposals. There are only sixty-two possible rank positions, however, due to various proposals receiving identical priority index ratings and priority rankings. A ranking of "1" indicates first priority, least priority is indicated by a ranking of "62.")	47
Priority index of this amendment as determined from response to the survey ballot. (Index numbers approximating "1.00" indicate high priority; index numbers approximating "5.00" indicate least priority.)	3.08

PRIORITIZED PROPOSALS FOR CONSTITUTIONAL AMENDMENT

On July 13, 1987, each member of the Commission on Constitutional Review was mailed a survey ballot. The survey ballot contained copies of each of the seventy-seven proposals for constitutional amendment offered by the six subcommittees of the Commission. Members of the full Commission were given the opportunity to mark on the ballot support, opposition, or lack of an opinion concerning individual proposals. Those proposed amendments receiving over fifty percent support as indicated from responses received appear in this final Commission report.

Respondents to the survey ballot were also asked to assign a priority ranking from one to five inclusive to each proposed amendment. A priority ranking of "1" denoted a proposal considered crucial in affecting the future of Kentucky, including its ability to compete with other states. A priority ranking of "5" denoted a proposal which, although desirable, is not urgent nor does it affect the future of Kentucky. Priority ratings were then averaged among responses received in order to generate a priority index for each proposal.

Amendment proposals are listed below by number in order of priority as evidenced by priority indexes. Also listed are the subcommittees which generated particular amendments as well as the page numbers of this report upon which the wording of amendments appears.

Priority Ranking	Amendment Proposal Number	Priority Index	Subcommittee	Report Page No.
1	25	1.42	Revenue	48
2	23	1.50	Education	40
3	24	1.59	Revenue	47
4	74	1.83	Priv. Corp.	131
5	8	2.00	State Govt.	19
5	34	2.00	Bill of Rights	66
5	73	2.00	Local Govt.	120
6	11	2.05	State Govt.	22
7	33	2.06	Bill of Rights	65
8	13	2.12	Education	29
9	2	2.15	State Govt.	12
9	26	2.15	Revenue	50
9	7	2.15	State Govt.	18
10	55	2.18	Bill of Rights	90
11	64	2.20	Local Govt.	109
12	47	2.22	Bill of Rights	81
13	75	2.24	Priv. Corp.	135
14	58	2.25	Local Govt.	102
15	14	2.27	Education	30
15	29	2.27	Revenue	53

Priority Ranking	Amendment Proposal Number	Priority Index	Subcommittee	Report Page No.
16	72	2.31	Local Govt.	119
17	59	2.35	Local Govt.	103
18	19	2.47	Education	36
19	12	2.50	State Govt.	23
19	30	2.50	Revenue	54
20	15	2.53	Education	32
21	46	2.55	Bill of Rights	79
22	18	2.555	Education	35
23	65	2.56	Local Govt.	110
24	16	2.58	Education	33
25	43	2.60	Bill of Rights	75
25	62	2.60	Local Govt.	106
26	37	2.63	Bill of Rights	69
27	35	2.64	Bill of Rights	67
28	4	2.67	State Govt.	14
29	5	2.68	State Govt.	16
30	48	2.69	Bill of Rights	82
31	1	2.70	State Govt.	11
32	41	2.73	Bill of Rights	73
32	63	2.73	Local Govt.	107
33	36	2.75	Bill of Rights	68
34	27	2.79	Revenue	51
35	66	2.81	Local Govt.	111
35	10	2.81	State Govt.	21
36	17	2.82	Education	34
37	56	2.86	Bill of Rights	92
38	44	2.88	Bill of Rights	76
39	60	2.89	Local Govt.	104
40	40	2.923	Bill of Rights	72
41	31	2.928	Revenue	55
42	9	3.00	State Govt.	20
42	42	3.00	Bill of Rights	74
42	57	3.00	Local Govt.	101
42	50	3.00	Bill of Rights	84
43	21	3.05	Education	38
44	70	3.06	Local Govt.	117
45	61	3.071	Local Govt.	105
46	28	3.076	Revenue	52
47	77	3.08	Priv. Corp.	142
48	69	3.17	Local Govt.	115
49	6	3.18	State Govt.	17
50	45	3.26	Bill of Rights	78
51	67	3.28	Local Govt.	112
52	71	3.29	Local Govt.	118
53	32	3.33	Revenue	57

Priority Ranking	Amendment Proposal Number	Priority Index	Subcommittee	Report Page No.
54	52	3.35	Bill of Rights	86
54	53	3.35	Bill of Rights	87
54	76	3.35	Priv. Corp.	141
54	39	3.35	Bill of Rights	71
55	3	3.45	State Govt.	13
56	68	3.47	Local Govt.	113
57	22	3.56	Education	39
58	54	3.69	Bill of Rights	88
59	49	3.80	Bill of Rights	83
60	51	4.00	Bill of Rights	85
61	20	4.06	Education	37
62	38	4.12	Bill of Rights	70

APPENDIX

- (6) Three Representatives of Labor
 - (7) Three Representatives of the Press/Media
 - (8) Fourteen Citizen Appointees
- B. The following will be appointed by the individual deans of each Kentucky College of Law:
- (1) One faculty member from Chase
 - (2) One faculty member from U. of L.
 - (3) One faculty member from U.K.
- C. The following will be appointed by the Chief Justice of the Supreme Court:
- (1) One District Judge
 - (2) One Circuit Judge
 - (3) One Judge of the Court of Appeals
- D. The Co-Chairmen of the Elections and Constitutional Amendments Task Force will serve as members.
- E. The Co-Chairmen of the Legislative Research Commission will serve as ex-officio members.
4. The Chairman will be designated by the Co-Chairmen of LRC.
5. The Commission on Constitutional Review will make its initial report to the LRC by no later than September 1, 1987. The Commission members will serve until May 1, 1988, at which time the LRC will review the work of the Commission and evaluate this approach to Constitutional Review.
6. The Director of the LRC is authorized to supply such staff and support as he deems necessary to successfully accomplish the Commission's mission.
7. Members will be reimbursed actual expenses for attendance of meetings or other necessary Commission activity.

WHEREAS, the Commonwealth of Kentucky adopted its present Constitution in 1891; and

WHEREAS, the Constitution is the fundamental document of government for this Commonwealth; and

WHEREAS, it is the intention of the Legislative Research Commission to insure its continued relevance to our citizens; and

WHEREAS, it is the Commission's belief that a constitutional convention called for re-writing this basic document is unwarranted and not feasible at this time; and

WHEREAS, a periodic review of the Constitution is a desirable and necessary course in a free society and such a course ultimately serves the best interest of our citizens;

NOW, THEREFORE,

Be it resolved by the Legislative Research Commission of the Commonwealth of Kentucky:

1. There is hereby created the LRC Special Commission on Constitutional Review.
2. The Commission on Constitutional Review is charged to review section by section Kentucky's present Constitution. In such review the Commission should insure that all interested parties are heard in a public setting. In making recommendations for changes the Commission will give all due consideration to the future of the Commonwealth and the benefits to be derived by our citizens.
3. The Commission will be appointed in the following manner:
 - A. The following will be appointed by the Co-Chairmen of the Legislative Research Commission:
 - (1) Two Senators—one of each party
 - (2) Two Representatives—one of each party
 - (3) Two Mayors
 - (4) Two County Judge/Executives
 - (5) Three Representatives of Business

Section 8. Freedom of speech and of the press. Printing presses shall be free to every person who undertakes to examine the proceedings of the General Assembly or any branch of government, and no law shall ever be made to restrain the right thereof. Every person may freely and fully speak, write and print on any subject, being responsible for the abuse of that liberty.

Free speech, Const. 1

Section 9. Truth may be given in evidence in prosecution for publishing matters proper for public information; jury to try law and facts in libel prosecutions. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libel the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Section 10. Security from search and seizure; conditions of issuance of warrant. The people shall be secure in their persons, houses, papers and possessions, from unreasonable search and seizure; and no warrant shall issue to search any place, or seize any person or thing, without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

Section 11. Rights of accused in criminal prosecution; change of venue. In all criminal prosecutions the accused has the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor. He cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land; and in prosecutions by indictment or information, he shall have a speedy public trial by an impartial jury of the vicinage; but the General Assembly may provide by a general law for a change of venue in such prosecutions for both the defendant and the Commonwealth, the change to be made to the most convenient county in which a fair trial can be obtained.

Local and special laws prohibited, Const. 59.

Section 12. Indictable offense not to be prosecuted by information; exceptions. No person, for an indictable offense, shall be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of court for oppression or misdemeanor in office.

Section 13. Double jeopardy; property not to be taken for public use without compensation. No person shall, for the same offense, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

Eminent domain, Const. 242.

Section 14. Right of judicial remedy for injury; speedy trial. All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Courts, Const. 109-144.

Section 15. Laws to be suspended only by General Assembly. No power to suspend laws shall be exercised unless by the General Assembly or its authority.

Section 16. Right to bail; habeas corpus. All prisoners shall be bailable by sufficient securities, unless for capital offenses when the proof is evident or the presumption great: and the privilege of the writ of habeas corpus shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

Section 17. Excessive bail or fine, or cruel punishment, prohibited. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishment inflicted.

Section 18. Imprisonment for debt restricted. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

Section 19. Ex post facto law or law impairing obligation of contract forbidden. No ex post facto law, nor any law impairing the obligation of contracts, shall be enacted.

Section 20. Attainder, operation of restricted. No person shall be attainted of treason or felony by the General Assembly, and no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the Commonwealth.

Section 21. Descent in case of suicide or casualty. The estate of such persons as shall destroy their own lives shall descend or vest as in cases of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

CONSTITUTION OF KENTUCKY

PREAMBLE

We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution.

BILL OF RIGHTS

That the great and essential principles of liberty and free government may be recognized and established, we declare that:

Section 1. Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, peaceable assembly, redress of grievances, bearing arms. All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned:

First: The right of enjoying and defending their lives and liberties.

Second: The right of worshipping Almighty God according to the dictates of their consciences.

Third: The right of seeking and pursuing their safety and happiness.

Fourth: The right of freely communicating their thoughts and opinions.

Fifth: The right of acquiring and protecting property.

Sixth: The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Seventh: The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.

Free speech, right of. Const. 8; Religious freedom, right of. Const. 5.

Section 2. Absolute and arbitrary power denied. Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.

Section 3. Men are equal; no exclusive grant except for public services; property not to be exempted from taxation; grants revocable. All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services; but no property shall be exempt from taxation except as provided in this Constitution, and every grant of a franchise, privilege or exemption, shall remain subject to revocation, alteration or amendment.

Private and local legislation prohibited. Const. 59; Property exempt from taxation, Const. 170.

Section 4. Power inherent in the people; right to alter, reform or abolish government. All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, happiness and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may deem proper.

Section 5. Right of religious freedom. No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience.

Freedom of worship. Const. 1; School money not to be used for sectarian schools. Const. 189.

Section 6. Elections to be free and equal. All elections shall be free and equal.

Elections, Const. 145 to 155.

Section 7. Right of trial by jury. The ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate, subject to such modifications as may be authorized by this Constitution.

Juries, Const. 248.

Section 22. Standing armies restricted; military subordinate to civil; quartering soldiers restricted. No standing army shall, in time of peace, be maintained without the consent of the General Assembly; and the military shall, in all cases and at all times, be in strict subordination to the civil power; nor shall any soldier, in time of peace, be quartered in any house without the consent of the owner, not in time of war, except in a manner prescribed by law.

Militia, Const. 219-225.

Section 23. No office of nobility or hereditary distinction, or for longer than a term of years. The General Assembly shall not grant any title of nobility or hereditary distinction, nor create any office the appointment of which shall be for a longer time than a term of years.

Term of office of county and district officers, Const. 107; inferior state officers, Const. 93.

Section 24. Emigration to be free. Emigration from the State shall not be prohibited.

Section 25. Slavery and involuntary servitude forbidden. Slavery and involuntary servitude in this State are forbidden, except as a punishment for crime, whereof the party shall have been duly convicted.

Section 26. General powers subordinate to Bill of Rights; laws contrary thereto are void. To guard against transgression of the high powers which we have delegated, We Declare that every thing in this Bill of Rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void.

DISTRIBUTION OF THE POWERS OF GOVERNMENT

Section 27. Powers of government divided among legislative, executive and judicial departments. The powers of the government of the Commonwealth of Kentucky shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

Section 28. One department not to exercise power belonging to another. No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances herein expressly directed or permitted.

LEGISLATIVE DEPARTMENT

Section 29. Legislative power vested in General Assembly. The legislative power shall be vested in a House of Representatives and a Senate, which, together, shall be styled the "General Assembly of the Commonwealth of Kentucky."

Power of pardon for treason vested in General Assembly, Const. 77.

Section 30. Term of office of Senators and Representatives. Members of the House of Representatives and Senators shall be elected at the general election in even-numbered years for terms of four years for Senators and two years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 31. Time of election and term of office of Senators and Representatives. At the general election to be held in November, 1984, and every two years thereafter, there shall be elected for four years one Senator in each Senatorial District in which the term of his predecessor in office will then expire and in every Representative District one Representative for two years.

Vacancies Const. 152.

Section 32. Qualifications of Senators and Representatives. No person shall be a Representative who, at the time of his election, is not a citizen of Kentucky, has not attained the age of twenty-four years, and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town or city for which he may be chosen. No person shall be a Senator who, at the time of his election, is not a citizen of Kentucky, has not attained the age of thirty years, and has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen.

Disqualification for dueling, using money or property to secure or influence election, receiving profit or public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59.

Section 33. Senatorial and Representative districts. The first General Assembly after the adoption of this Constitution shall divide the State into thirty-eight Senatorial Districts, and one hundred Representative Districts, as nearly equal in population as may be without dividing any county, except where a county may include more than one district, which districts shall constitute the Senatorial and Representative Districts for ten years. Not more than two counties shall be joined together to form a Representative District; Provided, In doing so the principle requiring every district to be as nearly equal in population as may be shall not be

violated. At the expiration of the time, the General Assembly shall then, and every ten years thereafter, redistrict the State according to this rule, and for the purposes expressed in this section. If, in making said districts, inequality of population should be unavoidable, any advantage resulting therefrom shall be given to districts having the largest territory. No part of a county shall be added to another county to make a district, and the counties forming a district shall be contiguous.

Section 34. Officers of Houses of General Assembly. The House of Representatives shall choose its Speaker and other officers, and the Senate shall have power to choose its officers biennially.

Senate President Pro Tempore, Const. 85, 86; Employees of General Assembly, number and compensation, Const. 249.

Section 35. Number of Senators and Representatives. The number of Representatives shall be one hundred, and the number of Senators thirty-eight.

Section 36. Time and place of meetings of General Assembly. The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for a period not to exceed ten legislative days for the purposes of electing legislative leaders, adopting rules of procedure and the organizing of committees. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Extraordinary sessions, Governor may call, Const. 80.

Section 37. Majority constitutes quorum; powers of less than a quorum. Not less than a majority of the members of each House of the General Assembly shall constitute a quorum to do business but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be prescribed by law.

Section 38. Each House to judge qualifications, elections and returns of its members; contests. Each House of the General Assembly shall judge of the qualifications, elections and returns of its members, but a contested election shall be determined in such manner as shall be directed by law.

Section 39. Powers of each House as to rules and conduct of members; contempt; bribery. Each House of the General Assembly may determine the rules of its pro-

ceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause, and may punish for contempt any person who refuses to attend as a witness, or to bring any paper proper to be used as evidence before the General Assembly, or either House thereof, or a Committee of either, or to testify concerning any matter which may be a proper subject of inquiry by the General Assembly, or offers or gives a bribe to a member of the General Assembly, or attempts by other corrupt means or device to control or influence a member to cast his vote or withhold the same. The punishment and mode of proceeding for contempt in such cases shall be prescribed by law, but the term of imprisonment in any such case shall not extend beyond the session of the General Assembly.

Section 40. Journals; when vote to be entered. Each House of the General Assembly shall keep and publish daily a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of the members elected, be entered on the journal.

Record of votes on bills, Const. 46.

Section 41. Adjournment during session. Neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which it may be sitting.

Power of Governor to adjourn, Const. 80.

Section 42. Compensation of members; length of sessions; legislative day. The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; nor shall a session of the General Assembly continue beyond sixty legislative days, exclusive of Sundays, legal holidays or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years; but this limitation as to length of session shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day.

Extraordinary sessions, Governor may call, Const. 80.

SCHEDULE

As a part of this amendment and as a schedule of transitional provisions, for the purpose of this amendment:

1. The General Assembly shall convene in a regular

session of 60 legislative days on the first Tuesday after the first Monday of January, 1980, and every two years thereafter.

2. The General Assembly shall convene as directed by this amendment for odd-numbered years on the first Tuesday after the first Monday of January, 1983, and every two years thereafter.

3. Representatives elected to office in November, 1979, shall serve a two year term, and their terms of office shall expire December 31, 1981.

4. Representatives elected to office in November, 1981, shall serve a three year term, and their terms of office shall expire December 31, 1984.

5. Senators elected to office in November, 1979, shall serve a four year term, and their terms of office shall expire December 31, 1983.

6. Senators elected to office in November, 1983, shall serve five years, and their terms of office shall expire December 31, 1988.

7. Senators elected to office in November, 1981, shall serve a five year term, and their terms of office shall expire December 31, 1986.

Section 43. Privileges from arrest and from questioning as to speech or debate. The members of the General Assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance on the sessions of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

Section 44. Ineligibility of members to civil office created or given increased compensation during term. No Senator or Representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit in this Commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the said term, except to such offices as may be filled by the election of the people.

Incompatible office, Const. 165, 237.

Section 45. Collector of public money ineligible unless he has quietus. No person who may have been a collector of taxes or public moneys for the Commonwealth, or for any county, city, town or district, or the assistant or deputy of such collector, shall be eligible to the General Assembly, unless he shall have obtained a quietus six months before the election for the amount of such collection, and for all public moneys for which he may have been responsible.

Section 46. Bills must be reported by committee, printed and read; how bill called from committee; votes required for passage. No bill shall be considered for final passage unless the same has been reported by a committee and printed for the use of the members. Every bill shall be read at length on three different days in each House, but the second and third readings may be dispensed with by a majority of all the members elected to the House in which the bill is pending. But whenever a committee refuses or fails to report a bill submitted to it in a reasonable time, the same may be called up by any member, and be considered in the same manner it would have been considered if it had been reported. No bill shall become a law unless, on its final passage, it receives the votes of at least two-fifths of the members elected to each House, and a majority of the members voting, the vote to be taken by yeas and nays and entered in the journal: Provided, Any act or resolution for the appropriation of money or the creation of debt shall, on its final passage, receive the votes of a majority of all the members elected to each House.

When vote to be entered in Journal, Const. 40.

Section 47. Bills to raise revenue must originate in House of Representatives. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments thereto: Provided, No new matter shall be introduced, under color of amendment, which does not relate to raising revenue.

Power to tax, Const. 174, 175, 180, 181, 182.

Section 48. Resources of Sinking Fund not to be diminished; preservation of fund. The General Assembly shall have no power to enact laws to diminish the resources of the Sinking Fund as now established by law until the debt of the Commonwealth be paid, but may enact laws to increase them; and the whole resources of said fund, from year to year, shall be sacredly set apart and applied to the payment of the interest and principal of the State debt, and to no other use or purpose, until the whole debt of the State is fully satisfied.

Section 49. Power to contract debts; limit. The General Assembly may contract debts to meet casual deficits or failures in the revenue; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars, and the moneys arising from loans creating such debts shall be applied only to the purpose or purposes for which they were obtained, or to repay such debts: Provided, The General Assembly may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defense.

Credit of state not to be loaned, exceptions, Const. 157a, 177; Debt of city or county not to be assumed, Const. 176.

Section 50. Purposes for which debt may be contracted; tax to discharge; public vote. No act of the General Assembly shall authorize any debt to be contracted on behalf of the Commonwealth except for the purposes mentioned in section 49, unless provision be made therein to levy and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it: Provided, The General Assembly may contract debts by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

Section 51. Law may not relate to more than one subject, to be expressed in title; amendments must be at length. No law enacted by the General Assembly shall relate to more than one subject, and that shall be expressed in the title, and no law shall be revised, amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revised, amended, extended or conferred, shall be re-enacted and published at length.

Section 52. General Assembly may not release debt to State or to county or city. The General Assembly shall have no power to release, extinguish or authorize the releasing or extinguishing, in whole or in part, the indebtedness or liability of any corporation or individual of this Commonwealth, or to any county or municipality thereof.

Section 53. Investigation of accounts of Treasurer and Auditor; report, publication, submission to Governor and General Assembly. The General Assembly shall provide by law for monthly investigations into the accounts of the Treasurer and Auditor of Public Accounts, and the result of these investigations shall be reported to the Governor, and these reports shall be semi-annually published in two newspapers of general circulation in the State. The reports received by the Governor shall, at the beginning of each session, be transmitted by him to the General Assembly for scrutiny and appropriate action.

Statement of receipts and disbursements of public money to be published, Const. 230.

Section 54. No restriction on recovery for injury or death. The General Assembly shall have no power to limit the amount to be recovered for injuries resulting in death, or for injuries to person or property.

Section 55. When laws to take effect; emergency legislation. No act, except general appropriation bills, shall become a law until ninety days after the adjourn-

ment of the session at which it was passed, except in cases of emergency, when by the concurrence of a majority of the members elected to each House of the General Assembly, by a yea and nay vote entered upon their journals, an act may become a law when approved by the Governor; but the reasons for the emergency that justifies this action must be set out at length in the journal of each House.

Section 56. Signing of bills; enrollment; presentation to Governor. No bill shall become a law until the same shall have been signed by the presiding officer of each of the two Houses in open session; and before such officer shall have affixed his signature to any bill, he shall suspend all other business, declare that such bill will now be read, and that he will sign the same to the end that it may become a law. The bill shall then be read at length and compared; and, if correctly enrolled, he shall, in the presence of the House in open session, and before any other business is entertained, affix his signature, which fact shall be noted in the journal, and the bill immediately sent to the other House. When it reaches the other House, the presiding officer thereof shall immediately suspend all other business, announce the reception of the bill, and the same proceeding shall thereupon be observed in every respect as in the House in which it was first signed. And thereupon the Clerk of the latter House shall immediately present the same to the Governor for his signature and approval.

Passage over veto, Const. 88; Concurrent orders and resolutions, Const. 89.

Section 57. Member having personal interest to make disclosure and not vote. A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the House of which he is a member, and shall not vote thereon upon pain of expulsion.

Section 58. General Assembly not to audit nor allow private claim; exception; appropriations. The General Assembly shall neither audit nor allow any private claim against the Commonwealth, except for expenses incurred during the session at which the same was allowed; but may appropriate money to pay such claim as shall have been audited and allowed according to law.

Suits against the state, Const. 231.

Section 59. Local and special legislation. The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes, namely:

First: To regulate the jurisdiction, or the practice, or the circuits of the courts of justice, or the rights, powers, duties or compensation of the officers thereof; but the practice in circuit courts in continuous session

may, by a general law, be made different from the practice of circuit courts held in terms.

Second: To regulate the summoning, impaneling or compensation of grand or petit jurors.

Third: To provide for changes of venue in civil or criminal causes.

Fourth: To regulate the punishment of crimes and misdemeanors, or to remit fines, penalties or forfeitures.

Fifth: To regulate the limitation of civil or criminal causes.

Sixth: To affect the estate of cestuis que trust, decedents, infants or other persons under disabilities, or to authorize any such persons to sell, lease, encumber or dispose of their property.

Seventh: To declare any person of age, or to relieve an infant or feme covert of disability, or to enable him to do acts allowed only to adults not under disabilities.

Eighth: To change the law of descent, distribution or succession.

Ninth: To authorize the adoption or legitimation of children.

Tenth: To grant divorces.

Eleventh: To change the names of persons.

Twelfth: To give effect to invalid deeds, wills or other instruments.

Thirteenth: To legalize, except as against the Commonwealth, the unauthorized or invalid act of any officer or public agent of the Commonwealth, or of any city, county or municipality thereof.

Fourteenth: To refund money legally paid into the State Treasury.

Fifteenth: To authorize or to regulate the levy, the assessment or the collection of taxes, or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

Sixteenth: To authorize the opening, altering, maintaining or vacating of roads, highways, streets, alleys, town plats, cemeteries, graveyards, or public grounds not owned by the Commonwealth.

Seventeenth: To grant a charter to any corporation, or to amend the charter of any existing corporation; to license companies or persons to own or operate ferries, bridges, roads or turnpikes; to declare streams navigable, or to authorize the construction of booms or dams therein, or to remove obstructions therefrom; to affect toll gates or to regulate tolls; to regulate fencing or the running at large of stock.

Eighteenth: To create, increase or decrease fees, percentages or allowances to public officers, or to extend the time for the collection thereof, or to authorize officers to appoint deputies.

Nineteenth: To give any person or corporation the right to lay a railroad track or tramway, or to amend existing charters for such purposes.

Twentieth: To provide for conducting elections, or for designating the places of voting, or changing the boundaries of wards, precincts or districts, except when new counties may be created.

Twenty-first: To regulate the rate of interest.

Twenty-second: To authorize the creation, extension, enforcement, impairment or release of liens.

Twenty-third: To provide for the protection of game and fish.

Twenty-fourth: To regulate labor, trade, mining or manufacturing.

Twenty-fifth: To provide for the management of common schools.

Twenty-sixth: To locate or change a county seat.

Twenty-seventh: To provide a means of taking the sense of the people of any city, town, district, precinct or county, whether they wish to authorize, regulate or prohibit therein the sale of vinous, spirituous or malt liquors, or alter the liquor laws.

Twenty-eighth: Restoring to citizenship persons convicted of infamous crimes.

Twenty-ninth: In all other cases where a general law can be made applicable, no special law shall be enacted.

Section 60. General law not to be made special or local by amendment; no special powers or privileges; law not to take effect on approval of other authority than General Assembly; exceptions. The General Assembly shall not indirectly enact any special or local act by the repeal in part of a general act, or by exempting from the operation of a general act any city, town,

district or county; but laws repealing local or special acts may be enacted. No law shall be enacted granting powers or privileges in any case where the granting of such powers or privileges shall have been provided for by a general law, nor where the courts have jurisdiction to grant the same or to give the relief asked for. No law, except such as relates to the sale, loan or gift of vinous, spirituous or malt liquors, bridges, turnpikes or other public roads, public buildings or improvements, fencing, running at large of stock, matters pertaining to common schools, paupers, and the regulation by counties, cities, towns or other municipalities of their local affairs, shall be enacted to take effect upon the approval of any other authority than the General Assembly, unless otherwise expressly provided in this Constitution.

Section 61. Provision to be made for local option on sale of liquor; time of elections. The General Assembly shall, by general law, provide a means whereby the sense of the people of any county, city, town, district or precinct may be taken, as to whether or not spirituous, vinous or malt liquors shall be sold, bartered or loaned therein, or the sale thereof regulated. But nothing herein shall be construed to interfere with or to repeal any law in force relating to the sale or gift of such liquors. All elections on this question may be held on a day other than the regular election days.

Local and special laws prohibited, Const. 59. This section was impliedly repealed by the enactment in 1919 of Const. 226a, which prohibited the manufacture, sale or transportation of intoxicating liquors. Const. 226a was repealed in 1935.

Section 62. Style of laws. The style of the laws of this Commonwealth shall be as follows: "Be it enacted by the General Assembly of the Commonwealth of Kentucky."

Other sections relating to the General Assembly: 1, 11, 15, 20, 22, 23, 63, 66, 67, 68, 70, 74, 75, 77, 79, 80, 83, 84, 85, 86, 87, 88, 89, 90, 91, 93, 94, 98, 102, 103, 104, 105, 106, 107, 108, 110, 111, 112, 113, 115, 117, 118, 120, 139, 140, 141, 142, 143, 145, 147, 148, 150, 151, 152, 153, 154, 155, 156, 160, 165, 166, 169, 170, 171, 172, 172a, 173, 174, 179, 180, 181, 182, 183, 185, 186, 188, 194, 196, 197, 198, 199, 205, 206, 209, 210, 220, 222, 223, 224, 225, 226, 227, 228, 231, 232, 233, 234, 235, 236, 238, 239, 241, 242, 243, 244, 244a, 245, 246, 247, 248, 249, 250, 252, 253, 255, 256, 258, 261, 262, 263.

COUNTIES AND COUNTY SEATS

Section 63. Area of counties; boundaries; creation and abolishment of counties. No new county shall be created by the General Assembly which will reduce the county or counties, or either of them, from which it shall be taken, to less area than four hundred square miles; nor shall any county be formed of less area; nor shall any boundary line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided. Nothing contained herein shall prevent the General Assembly from abolishing any county.

Section 64. Division of county or removal of county seat, election required; minimum population of county.

No county shall be divided, or have any part stricken therefrom, except in the formation of new counties, without submitting the question to a vote of the people of the county, nor unless the majority of all the legal voters of the county voting on the question shall vote for the same. The county seat of no county as now located, or as may hereafter be located, shall be moved, except upon a vote of two-thirds of those voting; nor shall any new county be established which will reduce any county to less than twelve thousand inhabitants, nor shall any county be created containing a less population.

Local and special laws prohibited, Const. 59.

Section 65. Striking territory from county; liability for indebtedness. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be bound for its proportion of the indebtedness of the county from which it has been taken.

County officers, Const. 97-108, 144. Other sections relating to counties: 52, 59, 60, 139, 140, 141, 142, 147, 148, 152, 157, 157a, 158, 159, 161, 162, 164, 165, 171, 173, 176, 178, 179, 180, 181, 197, 227, 234, 253.

IMPEACHMENTS

Section 66. Power of impeachment vested in House. The House of Representatives shall have the sole power of impeachment.

Section 67. Trial of impeachments by Senate. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the Senators present.

Chief Justice shall preside, Const. 84.

Section 68. Civil officers liable to impeachment; judgment; criminal liability. The Governor and all civil officers shall be liable to impeachment for any misdemeanors in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial and punishment by law.

Reprieves and pardons not allowed, Const. 77.

THE EXECUTIVE DEPARTMENT

OFFICERS FOR THE STATE AT LARGE

Section 69. Executive power vested in Governor. The supreme executive power of the Commonwealth shall be

vested in a Chief Magistrate, who shall be styled the "Governor of the Commonwealth of Kentucky."

Section 70. Election of Governor; term; tie vote. He shall be elected for the term of four years by the qualified voters of the State. The person having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot in such manner as the General Assembly may direct.

Time of election, Const. 95.

Section 71. Governor may not succeed himself. He shall be ineligible for the succeeding four years after the expiration of the term for which he shall have been elected.

Section 72. Qualifications of Governor. He shall be at least thirty years of age, and have been a citizen and a resident of Kentucky for at least six years next preceding his election.

Disqualification for dueling, using money or property to secure or influence election, receiving profit on public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59.

Section 73. When term of Governor begins. He shall commence the execution of the duties of his office on the fifth Tuesday succeeding his election, and shall continue in the execution thereof until his successor shall have qualified.

Section 74. Compensation of Governor. He shall at stated times receive for his services a compensation to be fixed by law.

Section 75. Governor is Commander-in-Chief of army, navy and militia. He shall be Commander-in-Chief of the army and navy of this Commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the General Assembly.

Section 76. Power of Governor to fill vacancies. He shall have the power, except as otherwise provided in this Constitution, to fill vacancies by granting commissions, which shall expire when such vacancies shall have been filled according to the provisions of this Constitution.

Vacancies to be filled by Governor, Const. 152.

Section 77. Power of Governor to remit fines and forfeitures, grant reprieves and pardons; no power to remit fees. He shall have power to remit fines and forfeitures, commute sentences, grant reprieves and pardons, except in case of impeachment, and he shall

file with each application therefor a statement of the reasons for his decision thereon, which application and statement shall always be open to public inspection. In cases of treason, he shall have power to grant reprieves until the end of the next session of the General Assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the Clerk, Sheriff or Commonwealth's Attorney in penal or criminal cases.

Pardon of person convicted of dueling, Const. 240.

Section 78. Governor may require information from state officers. He may require information in writing from the officers of the Executive Department upon any subject relating to the duties of their respective offices.

Section 79. Reports and recommendations to General Assembly. He shall, from time to time, give to the General Assembly information of the state of the Commonwealth, and recommend to their consideration such measures as he may deem expedient.

Section 80. Governor may call extraordinary session of General Assembly; adjourn General Assembly.¹ He may, on extraordinary occasions, convene the General Assembly at the seat of government, or at a different place, if that should have become dangerous from an enemy or from contagious diseases. In case of disagreement between the two Houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not exceeding four months. When he shall convene the General Assembly it shall be by proclamation, stating the subjects to be considered, and no others shall be considered.

Regular sessions, time and place of, length, Const. 36, 42.

Section 81. Governor to enforce laws. He shall take care that the laws be faithfully executed.

Other sections relating to the Governor: 36, 53, 68, 84, 85, 87, 88, 89, 90, 95, 96, 110, 118, 121, 140, 142, 150, 152, 171, 222, 225, 240, 245, 246, 247, 256.

Section 82. Lieutenant Governor; election, term, qualifications; not to succeed himself. A Lieutenant Governor shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. He shall be ineligible to the office of Lieutenant Governor for the succeeding four years after the expiration of the term for which he shall have been elected.

Time of election, Const. 95; Disqualification for dueling, using money or property to secure or influence election, receiving profit on public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59.

Section 83. Lieutenant Governor is President of Senate; right to vote. He shall, by virtue of his office, be

President of the Senate, have a right, when in Committee of the Whole, to debate and vote on all subjects, and when the Senate is equally divided, to give the casting vote.

Section 84. When Lieutenant Governor to act as Governor; not to preside at impeachment of Governor. Should the Governor be impeached and removed from office, die, refuse to qualify, resign, be absent from the State, or be, from any cause, unable to discharge the duties of his office, the Lieutenant Governor shall exercise all the power and authority appertaining to the office of Governor until another be duly elected and qualified, or the Governor shall return or be able to discharge the duties of his office. On the trial of the Governor, the Lieutenant Governor shall not act as President of the Senate or take part in the proceedings, but the Chief Justice of the Court of Appeals shall preside during the trial.

Section 85. President Pro tem of Senate; election, powers; election to fill vacancy in office of Governor. A President pro tempore of the Senate shall be elected by each Senate as soon after its organization as possible, the Lieutenant Governor vacating his seat as President of the Senate until such election shall be made; and as often as there is a vacancy in the office of President pro tempore, another President pro tempore of the Senate shall be elected by the Senate, if in session. And if, during the vacancy of the office of Governor, the Lieutenant Governor shall be impeached and removed from office, refuse to qualify, resign, die or be absent from the State, the President pro tempore of the Senate shall in like manner administer the government: Provided, Whenever a vacancy shall occur in the office of Governor before the first two years of the term shall have expired, a new election for Governor shall take place to fill such vacancy.

Section 86. Compensation of Lieutenant Governor and President pro tem of the Senate. The Lieutenant Governor, or President pro tempore of the Senate, while he acts as President of the Senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the Speaker of the House of Representatives, and during the time he administers the government as Governor, he shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

Maximum limit on compensation, Const. 246.

Section 87. Who to act as Governor in absence of Lieutenant Governor and President pro tem of the Senate. If the Lieutenant Governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the General Assembly, if there be no

President pro tempore of the Senate, it shall be the duty of the Secretary of State, for the time being, to convene the Senate for the purpose of choosing a President; and until a President is chosen, the Secretary of State shall administer the government. If there be no Secretary of State to perform the duties devolved upon him by this section, or in case that officer be absent from the State, then the Attorney-General, for the time being, shall convene the Senate for the purpose of choosing a President, and shall administer the government until a President is chosen.

Section 88. Signature of bills by Governor; veto; passage over veto; partial veto. Every bill which shall have passed the two Houses shall be presented to the Governor. If he approves, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter the objections in full upon its journal, and proceed to reconsider it. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which it shall likewise be considered, and if approved by a majority of all the members elected to that House, it shall be a law; but in such case the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless disapproved by him within ten days after the adjournment, in which case his veto message shall be spread upon the register kept by the Secretary of State. The Governor shall have the power to disapprove any part or parts of appropriation bills embracing distinct items, and the part or parts disapproved shall not become a law unless reconsidered and passed, as in case of a bill.

Bill proposing Constitutional amendment or submitting classification of property to referendum not subject to veto, Const. 171, 256.

Section 89. Concurrent orders and resolutions on same footing as bill. Every order, resolution or vote, in which the concurrence of both Houses may be necessary, except on a question of adjournment, or as otherwise provided in this Constitution, shall be presented to the Governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by a majority of the members elected to both Houses, according to the rules and limitations prescribed in case of a bill.

Section 90. Contest of election for Governor or Lieutenant Governor. Contested elections for Governor and Lieutenant Governor shall be determined by both

Houses of the General Assembly, according to such regulations as may be established by law.

Tie vote, how determined, Const. 70.

Section 91. Constitutional State officers; election, qualifications, term of office; duties; Secretary of State to record acts of Governor and report them to General Assembly. A treasurer, Auditor of Public Accounts, Register of the Land Office, Commissioner of Agriculture, Labor and Statistics, Secretary of State, Attorney-General and Superintendent of Public Instruction, shall be elected by the qualified voters of the State at the same time the Governor is elected, for the term of four years, each of whom shall be at least thirty years of age at the time of his election, and shall have been a resident citizen of the State at least two years next before his election. The duties of all these officers shall be such as may be prescribed by law, and the Secretary of State shall keep a fair register of and attest all the official acts of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either House of the General Assembly. The officers named in this section shall enter upon the discharge of their duties the first Monday in January after their election, and shall hold their offices until their successors are elected and qualified.

Disqualification for dueling, using money or property to secure or influence election, receiving profit on public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59.

Section 92. Qualifications of Attorney-General. The Attorney-General shall have been a practicing lawyer eight years before his election.

Section 93. Constitutional State officers not to succeed themselves; duties, fees; inferior State Officers; term. The Treasurer, Auditor of Public Accounts, Secretary of State, Commissioner of Agriculture, Labor and Statistics, Attorney-General, Superintendent of Public Instruction and Register of the Land Office shall be ineligible to re-election for the succeeding four years after the expiration of the term for which they shall have been elected. The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior State officers, not specifically provided for in this Constitution, may be appointed or elected, in such manner as may be prescribed by law, for a term not exceeding four years, and until their successors are appointed or elected and qualified.

Section 94. Register of Land Office may be abolished. The General Assembly may provide for the abolishment of the office of the Register of the Land Office, to take effect at the end of any term, and shall provide by law

for the custody and preservation of the papers and records of said office, if the same be abolished.

Secretary of State to perform the duties, KRS 56.020.

Section 95. Time of election of Constitutional State officers. The election under this Constitution for Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and Commissioner of Agriculture, Labor and Statistics, shall be held on the first Tuesday after the first Monday in November, eighteen hundred and ninety-five, and the same day every four years thereafter.

Time of election of public officers generally, Const. 148.

Section 96. Compensation of Constitutional State officers. All officers mentioned in section 95 shall be paid for their services by salary, and not otherwise.

Maximum limit on salaries, Const. 246.

Section 97. Commonwealth's Attorney and Circuit Court Clerk; election term. At the general election in eighteen hundred and ninety-two there shall be elected in each circuit court district a Commonwealth's Attorney, and in each county a Clerk of the Circuit Court, who shall enter upon the discharge of the duties of their respective offices on the first Monday in January after their election, and shall hold their offices five years, and until their successors are elected and qualified. In the year eighteen hundred and ninety-seven, and every six years thereafter, there shall be an election in each county for a Circuit Court Clerk, and for Commonwealth's Attorney, in each circuit court district, unless that office be abolished, who shall hold their respective offices for six years from the first Monday in January after their election, and until the election and qualification of their successors.

Abolishment of Office of Commonwealth's Attorney, Const. 108; Clerks of Courts, Const. 114.

Section 98. Compensation of Commonwealth's Attorney. The compensation of the Commonwealth's Attorney shall be by salary and such percentage of fines and forfeitures as may be fixed by law, and such salary shall be uniform in so far as the same shall be paid out of the State Treasury, and not to exceed the sum of five hundred dollars per annum; but any county may make additional compensation, to be paid by said county. Should any percentage of fines and forfeitures be allowed by law, it shall not be paid except upon such proportion of fines and forfeitures as have been collected and

paid into the State Treasury, and not until so collected and paid.

Maximum limit on compensation, Const. 246.

Section 99. County officers; Justices of the Peace and Constables; election; term. There shall be elected in each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, who shall hold their offices four years until the election and qualification of their successors.

Justices of the Peace, Const. 142.

Section 100. Qualifications of officers for counties and districts. No person shall be eligible to the offices mentioned in sections 97 and 99 who is not at the time of his election twenty-four years of age (except Clerks of County and Circuit Courts, who shall be twenty-one years of age), a citizen of Kentucky, and who has not resided in the State two years, and one year next preceeding his election in the county and district in which he is a candidate. No person shall be eligible to the office of Commonwealth's Attorney unless he shall have been a licensed practicing lawyer four years. No person shall be eligible to the office of County Attorney unless he shall have been a licensed practicing lawyer two years. No person shall be eligible to the office of Clerk unless he shall have procured from a Judge of the Court of Appeals, or a Judge of a Circuit Court, a certificate that he has been examined by the Clerk of his Court under his supervision, and that he is qualified for the office for which he is a candidate.

Section 101. Qualifications and jurisdiction of Constables. Constables shall possess the same qualifications as Sheriffs, and their jurisdictions shall be co-extensive with the counties in which they reside. Constables now in office shall continue in office until their successors are elected and qualified.

Section 102. Officers for new counties. When a new county shall be created, officers for the same, to serve until the next regular election, shall be elected or appointed in such way and at such times as the General Assembly may prescribe.

Section 103. Bonds of county officers and other officers. The Judges of County Courts, Clerks, Sheriffs, Surveyors, Coroners, Jailers, Constables, and such other officers as the General Assembly may, from time to time, require, shall before they enter upon the duties of their respective offices, and as often thereafter

as may be deemed proper, give such bond and security as may be prescribed by law.

What officers to give bond, liability on, Const. 224.

Section 104. Abolishment of office of Assessor; Assessor may not succeed himself. The General Assembly may abolish the office of Assessor and provide that the assessment of property shall be made by other officers; but it shall have power to reestablish the office of Assessor and prescribe his duties. No person shall be eligible to the office of Assessor two consecutive terms.

Property valuation administrator in lieu of assessor, KRS 132.370.

Section 105. Consolidation of offices of Sheriff and Jailer. The General Assembly may, at any time, consolidate the offices of Jailer and Sheriff in any county or counties, as it shall deem most expedient; but in the event such consolidation be made, the office of Sheriff shall be retained, and the Sheriff shall be required to perform the duties of Jailer.

Section 106. Fees of county officers; fees in counties having seventy-five thousand population or more. The fees of county officers shall be regulated by law. In counties or cities having a population of seventy-five thousand or more, the Clerks of the respective Courts thereof (except the Clerk of the City Court), the Marshals, the Sheriffs and the Jailers, shall be paid out of the State Treasury, by salary to be fixed by law, the salaries of said officers and of their deputies and necessary office expenses not to exceed seventy-five per centum of the fees collected by said officers, respectively, and paid into the Treasury.

Maximum compensation, Const. 246; Local and special laws prohibited, Const. 59.

Section 107. Additional county or district offices may be created. The General Assembly may provide for the election or appointment, for a term not exceeding four years, of such other county or district ministerial and executive officers as may, from time to time, be necessary.

Section 108. Abolishment of office of Commonwealth's Attorney. The General Assembly may, at any time after expiration of six years from the adoption of this Constitution, abolish the office of Commonwealth's Attorney, to take effect upon the expiration of the term of the incumbents, in which event the duties of said office shall be discharged by the County Attorneys.

THE JUDICIAL DEPARTMENT

Section 109. The judicial power; unified system; impeachment. The judicial power of the Commonwealth shall be vested exclusively in one Court of Justice which shall be divided into a Supreme Court, a Court of Appeals, a trial court of general jurisdiction known as the Circuit Court and a trial court of limited jurisdiction known as the District Court. The court shall constitute a unified judicial system for operation and administration. The impeachment powers of the General Assembly shall remain inviolate.

Local and special laws prohibited, Const. 59.

THE SUPREME COURT

Section 110. Composition; jurisdiction; quorum; special justices; districts; Chief Justice. (1) The Supreme Court shall consist of the Chief Justice of the Commonwealth and six Associate Justices.

(2)(a) The Supreme Court shall have appellate jurisdiction only, except it shall have the power to issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause, or as may be required to exercise control of the Court of Justice.

(b) Appeals from a judgment of the Circuit Court imposing a sentence of death or life imprisonment or imprisonment for twenty years or more shall be taken directly to the Supreme Court. In all other cases, criminal and civil, the Supreme Court shall exercise appellate jurisdiction as provided by its rules.

(3) A majority of the Justices of the Supreme Court shall constitute a quorum for the transaction of business. If as many as two Justices decline or are unable to sit in the trial of any cause, the Chief Justice shall certify that fact to the Governor, who shall appoint to try the particular cause a sufficient number of Justices to constitute a full court for the trial of the cause.

(4) The Court of Appeals districts existing on the effective date of this amendment to the Constitution shall constitute the initial Supreme Court districts. The General Assembly thereafter may redistrict the Commonwealth, by counties, into seven Supreme Court districts as nearly equal in population and as compact in form as possible. There shall be one Justice from each Supreme Court district.

(5)(a) The Justices of the Supreme Court shall elect one of their number to serve as Chief Justice for a term of four years.

(b) The Chief Justice of the Commonwealth shall be the executive head of the Court of Justice and he shall

appoint such administrative assistants as he deems necessary. He shall assign temporarily any Justice or Judge of the Commonwealth, active or retired, to sit in any Court other than the Supreme Court when he deems such assignment necessary for the prompt disposition of causes. The Chief Justice shall submit the budget for the Court of Justice and perform all other necessary administrative functions relating to the court.

THE COURT OF APPEALS

Section 111. Composition; jurisdiction; administration; panels. (1) The Court of Appeals shall consist initially of fourteen judges, an equal number to be selected from each Supreme Court district. The number of judges thereafter shall be determined from time to time by the General Assembly upon certification of necessity by the Supreme Court.

(2) The Court of Appeals shall have appellate jurisdiction only, except that it may be authorized by rules of the Supreme Court to review directly decisions of administrative agencies of the Commonwealth, and it may issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause within its appellate jurisdiction. In all other cases, it shall exercise appellate jurisdiction as provided by law.

(3) The Judges of the Court of Appeals shall elect one of their number to serve as Chief Judge for a term of four years. The Chief Judge shall exercise such authority and perform such duties in the administration of the Court of Appeals as are prescribed in this section or as may be prescribed by the Supreme Court.

(4) The Court of Appeals shall divide itself into panels of not less than three judges. A panel may decide a cause by the concurring vote of a majority of its Judges. The Chief Judge shall make assignments of Judges to panels. The Court of Appeals shall prescribe the times and places in the Commonwealth at which each panel shall sit.

THE CIRCUIT COURT

Section 112. Location; circuits; composition; administration; jurisdiction. (1) Circuit Court shall be held in each county.

(2) The Circuit Court Districts existing on the effective date of this amendment to the Constitution shall continue under the name 'Judicial Circuits,' the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the Judicial Districts. A Judicial Circuit composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a Judicial Circuit.

(3) The number of Circuit Judges in each district existing on the effective date of this amendment shall continue, the General Assembly having power upon certification of the necessity therefor by the Supreme Court, to change the number of Circuit Judges in any Judicial Circuit.

(4) In a Judicial Circuit having only one judge, he shall be the Chief Judge. In Judicial Circuits having two or more Judges, they shall select biennially a Chief Judge, and if they fail to do so within a reasonable time, the Supreme Court shall designate the Chief Judge. The Chief Judge shall exercise such authority and perform such duties in the administration of his Judicial Circuit as may be prescribed by the Supreme Court. The Supreme Court may provide by rules for administration of Judicial Circuits by regions designated by it.

(5) The Circuit Court shall have original jurisdiction of all justiciable causes not vested in some other court. It shall have such appellate jurisdiction as may be provided by law.

THE DISTRICT COURT

Section 113. Location; districts; composition; administration; trial commissioners; jurisdiction. (Effective January 2, 1978) (1) District Court shall be held in each county.

(2) The Circuit Court Districts existing on the effective date of this amendment shall continue for District Court purposes under the name 'Judicial Districts,' the General Assembly having power upon certification of the necessity therefor by the Supreme Court to reduce, increase or rearrange the districts. A Judicial District composed of more than one county shall be as compact in form as possible and of contiguous counties. No county shall be divided in creating a Judicial District.

(3) Each Judicial District created by this amendment initially shall have at least one District Judge who shall serve as Chief Judge and there shall be such other District Judges as the General Assembly shall determine. The number of District Judges in each Judicial District thereafter shall be determined by the General Assembly upon certification of necessity therefor by the Supreme Court.

(4) In a Judicial District having only one Judge he shall be the Chief Judge. In those districts having two or more Judges they shall select biennially a Chief Judge and if they fail to do so within a reasonable time, the Supreme Court shall designate the Chief Judge. The Chief Judge shall exercise such authority and perform such duties in the administration of his district as may be prescribed by the Supreme Court.

(5) In any county in which no District Judge resides the Chief Judge of the district shall appoint a Trial Commissioner who shall be a resident of such county and who shall be an attorney if one is qualified and available. Other Trial Commissioners with like qualifications may be appointed by the Chief Judge in any Judicial District upon certification of the necessity therefor by the Supreme Court. All Trial Commissioners shall have power to perform such duties of the District Court as may be prescribed by the Supreme Court.

(6) The District Court shall be a court of limited jurisdiction and shall exercise original jurisdiction as may be provided by the General Assembly.

CLERKS OF COURTS

Section 114. Selection; removal. (1) The Supreme Court shall appoint a clerk to serve as it shall determine.

(2) The Court of Appeals shall appoint a clerk to serve as it shall determine.

(3) The clerks of the Circuit Court shall be elected in the manner provided elsewhere in this Constitution. The Clerks of the Circuit Court shall serve as the clerks of the District Court. The clerks of the Circuit Court shall be removable from office by the Supreme Court upon good cause shown.

APPELLATE POLICY: RULE-MAKING POWER

Section 115. Right of appeal; procedure. In all cases, civil and criminal, there shall be allowed as a matter of right at least one appeal to another court, except that the Commonwealth may not appeal from a judgment of acquittal in a criminal case, other than for the purpose of securing a certification of law, and the General Assembly may prescribe that there shall be no appeal from that portion of a judgment dissolving a marriage. Procedural rules shall provide for expeditious and inexpensive appeals. Appeals shall be upon the record and not by trial de novo.

Section 116. Rules governing jurisdiction, personnel, procedure; Bar membership. The Supreme Court shall have the power to prescribe rules governing its appellate jurisdiction, rule for the appointment of commissioners and other court personnel, and rules of practice and procedure for the Court of Justice. The Supreme Court shall, by rule, govern admission to the Bar and the discipline of members of the Bar.

OFFICES OF JUSTICES AND JUDGES

Section 117. Election. Justices of the Supreme Court and Judges of the Court of Appeals, Circuit and District

Court shall be elected from their respective districts or circuits on a nonpartisan basis as provided by law.

Section 118. Vacancies. (1) A vacancy in the office of a Justice of the Supreme Court, or of a Judge of the Court of Appeals, Circuit or District Court which under Section 152 of this Constitution is to be filled by appointment by the Governor shall be filled by the Governor from a list of three names presented to him by the appropriate Judicial Nominating Commission. If the Governor fails to make an appointment from the list within sixty days from the date it is presented to him, the appointment shall be made from the same list by the Chief Justice of the Supreme Court.

(2) There shall be one Judicial Nominating Commission for the Supreme Court and the Court of Appeals, one for each Judicial Circuit, and one for each Judicial District, except that circuit and district having the same boundary shall have but one Judicial Nominating Commission. Each commission shall consist of seven members, one of whom shall be the Chief Justice of the Supreme Court, who shall be chairman. Two members of each commission shall be members of the Bar, who shall be elected by their fellow members. The other four members shall be appointed by the Governor from among persons not members of the Bar, and these four shall include at least two members of each of the two political parties of the Commonwealth having the largest number of voters. Members of a Judicial Circuit or Judicial District Nominating Commission must be residents of the circuit or district, respectively, and the lawyer members of the commission shall be elected by the members of the Bar presiding in the circuit or district, respectively. The terms of office of members of Judicial Nominating Commissions shall be fixed by the General Assembly. No person shall be elected or appointed a member of a Judicial Nominating Commission who holds any other public office or any office in a political party or organization.

Section 119. Terms of office. Justices of the Supreme Court and Judges of the Court of Appeals and Circuit Court shall severally hold their offices for terms of eight years, and Judges of the District Court for terms of four years. All terms commence on the first Monday in January next succeeding the regular election for the office. No Justice or Judge may be deprived of his term of office by redistricting, or by a reduction in the number of Justices or Judges.

Section 120. Compensation: expenses. All Justices and Judges shall be paid adequate compensation which shall be fixed by the General Assembly. All compensation and necessary expenses of the Court of Justice shall be paid out of the State Treasury. The compensation of a Justice or Judge shall not be reduced during his term.

Maximum limit on compensation, Const. 246.

Section 121. Retirement and removal. Subject to rules of procedure to be established by the Supreme Court, and after notice and hearing, any Justice of the Supreme Court or Judge of the Court of Appeals, Circuit Court or District Court may be retired for disability or suspended without pay or removed for good cause by a commission composed of one Judge of the Court of Appeals, selected by that Court, one Circuit Judge and one District Judge selected by majority vote of the Circuit Judges and District Judges, respectively, one member of the Bar appointed by its governing body, and two persons, not members of the Bench or Bar, appointed by the Governor. The commission shall be a State body whose members shall hold office for four-year terms. Its actions shall be subject to judicial review by the Supreme Court.

Section 122. Eligibility. To be eligible to serve as a Justice of the Supreme Court or a Judge of the Court of Appeals, Circuit Court or District Court a person must be a citizen of the United States, licensed to practice law in the Courts of this Commonwealth, and have been a resident of this Commonwealth, and of the district from which he is elected for two years next preceding his taking office. In addition, to be eligible to serve as a Justice of the Supreme Court or Judge of the Court of Appeals or Circuit Court a person must have been a licensed attorney for at least eight years. No District Judge shall serve who has not been a licensed attorney for at least two years.

Disqualification for dueling, using money or property to secure or influence election, receiving profit on public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59.

Section 123. Prohibited activities. During his term of office, no Justice of the Supreme Court or Judge of the Court of Appeals, Circuit Court or District Court shall engage in the practice of law, or run for elective office other than judicial office, or hold any office in a political party or organization.

Section 124. Conflicting provisions. Any remaining sections of the Constitution of Kentucky as it existed prior to the effective date of this amendment which are in conflict with the provisions of amended Sections 110 through 125 are repealed to the extent of the conflict, but such amended sections are not intended to repeal those parts of Sections 140 and 142 conferring non-judicial powers and duties upon County Judges and Justices of the Peace. Nothing in such amended sections shall be construed to limit the powers otherwise granted by this Constitution to the County Judge as the Chief executive, administrative and fiscal officer of the county, or to limit the powers otherwise granted by the Constitution to the Justices of the Peace or County Commissioners as executive, administrative and fiscal officers of a county, or of the Fiscal Court as a governing body of a county.

SCHEDULE

As a part of this amendment and as a schedule of transitional provisions, for the purposes of this amendment:

1. The Judges of the Court of Appeals in office on the effective date of this amendment shall become Justices of the Supreme Court, for the duration of their terms, and the election of successors shall be in accordance with those terms.

2. The Circuit Judges in office on the effective date of this amendment shall be continued therein for the duration of their terms. The term of office of eight years provided in this amendment for Circuit Judges shall apply to the Circuit Judges elected at the election at which this amendment is adopted.

3. The term of office of Judges of the Court of Appeals created by this amendment shall be deemed to commence as of the first Monday, in January, 1976. The vacancies existing on that date by virtue of no election having been held for the office in November, 1975 shall be filled in accordance with Section 152 of the present Constitution and Section 118 as created by this amendment.

4. The term of office of Judges of the District Court shall be deemed to commence as of the First Monday in January, 1978, and judges shall be elected at the regular election next preceding that date. The District Court shall be constituted and organized as of the first Monday in January, 1978.

5. The quarterly courts, county courts as judicial bodies, justices' courts and police courts in existence on the effective date of this amendment shall continue in existence until the first Monday in January, 1978. For that period those courts shall continue to be governed by the present Constitution and none of the provisions of this amendment shall apply to them, except that those courts shall be deemed a part of the unified judicial system and shall be subject to the general control and rulemaking power of the Supreme Court. The terms of any police court judges which commence on the first Monday in January, 1976, shall be reduced to two years from that date.

6. The Clerk of the Court of Appeals elected at the election at which this amendment is adopted shall serve as Clerk of the Supreme Court for the term for which he was elected, subject to removal by the Supreme Court for good cause.

7. Until otherwise provided by law the statutes applicable to the present Court of Appeals and not inconsistent with this amendment shall apply to the Supreme Court.

8. All causes and proceedings pending in the present Court of Appeals on the effective date of this amendment are transferred to and shall be decided or otherwise disposed of by the Supreme Court.

9. All causes and proceedings pending in the quarterly courts, county courts as judicial bodies, justices' courts and police courts, on the first Monday in January, 1978, shall then be transferred to and decided by the Circuit Court or the District Court of the area, in accordance with the respective jurisdictions prescribed for the latter courts.

Sections 125-138. Repealed January 1, 1976.

COUNTY COURTS

Section 140. County Court for each county; Judge; compensation; commission; removal. There shall be established in each county now existing, or which may be hereafter created, in this State, a Court, to be styled the County Court, to consist of a Judge, who shall be a conservator of the peace, and shall receive such compensation for his services as may be prescribed by law. He shall be commissioned by the Governor, and shall vacate his office by removal from the county in which he may have been elected.

Conflicting provisions, Const. 124.

JUSTICES' COURTS

Section 142. Justices' districts; one Justice for each district; jurisdiction and powers of Justices; commissions; removal. Each county now existing, or which may hereafter be created, in this State shall be laid off into districts in such manner as the General Assembly may direct; but no county shall have less than three nor more than eight districts, in each of which districts one Justice of the Peace shall be elected as provided in section 99. The General Assembly shall make provisions for regulating the number of said districts from time to time within the limits herein prescribed, and for fixing the boundaries thereof. The jurisdiction of Justices of the Peace shall be co-extensive with the county, and shall be equal and uniform throughout the State. Justices of the Peace shall be conservators of the peace. They shall be commissioned by the Governor, and shall vacate their offices by removal from the districts, respectively, in which they may have been elected.

Conflicting provisions, Const. 124.

FISCAL COURTS

Section 144. Fiscal Court for each county; to consist of Justices of the Peace or Commissioners, and County Judge; quorum. Counties shall have a Fiscal Court,

which may consist of the Judge of the County Court and the Justices of the Peace, in which Court the Judge of the County Court shall preside, if present; or a county may have three commissioners, to be elected from the county at large, who, together with the Judge of the County Court, shall constitute the Fiscal Court. A majority of the members of said Court shall constitute a Court for the transaction of business. But where, for county governmental purposes, a city is by law separated from the remainder of the county, such Commissioners may be elected from the part of the county outside of such city.

SUFFRAGE AND ELECTIONS

Section 145. Persons entitled to vote. Every citizen of the United States of the age of eighteen years who has resided in the state one year, and in the county six months, and the precinct in which he offers to vote sixty days next preceding the election, shall be a voter in said precinct and not elsewhere but the following persons are excepted and shall not have the right to vote.

1. Persons convicted in any court of competent jurisdiction of treason, or felony, or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage, but persons hereby excluded may be restored to their civil rights by executive pardon.

2. Persons who, at the time of the election, are in confinement under the judgment of a court for some penal offense.

3. Idiots and insane persons.

As amended 1955; Right of suffrage not to be abridged on account of sex, U. S. Const., 19th Amendment.

Section 146. Soldiers or sailors stationed in State are not residents. No person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed within the same.

Section 147. Registration of voters; manner of voting; absent voting; voting machines; "election" defined; election laws; illiterate and disabled voters. The General Assembly shall provide by law for the registration of all persons entitled to vote in cities and towns having a population of five thousand or more; and may provide by general law the registration of other voters in the State. Where registration is required, only persons registered shall have the right to vote. The mode of registration shall be prescribed by the General Assembly. In all elections by persons in a representative capacity, the voting shall be viva voce and made a matter of record; but all elections by the people shall be by secret official ballot, furnished by public authority to the voters at the polls, and marked by each voter in

private at the polls, and then and there deposited, or any person absent from the county of his legal residence, or from the state, may be permitted to vote in a manner provided by law. Counties so desiring may use voting machines, these machines to be installed at the expense of such counties. The word "elections" in this section includes the decision of questions submitted to the voters, as well as the choice of officers by them. The General Assembly shall pass all necessary laws to enforce this section, and shall provide that persons illiterate, blind, or in any way disabled may have their ballots marked or voted as herein required.

As amended 1941, 1945.

Section 148. Number of elections; day and hours of election; election years; qualifications of officers; employees to be given time to vote. Not more than one election each year shall be held in this State or in any city, town, district, or county thereof, except as otherwise provided in this Constitution. All elections of State, county, city, town or district officers shall be held on the first Tuesday after the first Monday in November; but no officer of any city, town, or county, or of any subdivision thereof, except members of municipal legislative boards, shall be elected in the same year in which members of the House of Representatives of the United States are elected. District or State officers, including members of the General Assembly, may be elected in the same year in which members of the House of Representatives of the United States are elected. All elections by the people shall be between the hours of six o'clock a.m. and seven o'clock p.m., but the General Assembly may change said hours, and all officers of any election shall be residents and voters in the precinct in which they act. The General Assembly shall provide by law that all employers shall allow employees, under reasonable regulations, at least four hours on election days, in which to cast their votes.

Time of election of Constitutional state officers, Const. 95.

Section 149. Privilege from arrest during voting. Voters, in all cases except treason, felony, breach of surety of the peace, or violation of the election laws, shall be privileged from arrest during their attendance at elections, and while they are going to and returning therefrom.

Section 150. Disqualification from office for using money or property to secure or influence election; corporation not to use money or other thing of value to influence election; exclusion from office for conviction of felony or high misdemeanor; laws to regulate elections. Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected who shall be convicted of having given, or consented to the giving, offer or promise of

any money or other thing of value, to procure his election, or to influence the vote of any voter at such election; and if any corporation shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or any thing of value to influence the result of any election in this State, or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this Commonwealth, shall, on conviction thereof, forfeit its charter and all rights, privileges and immunities thereunder and if chartered by another State and doing business in this State, whether by license, or upon mere sufferance, such corporation, upon conviction of either of the offenses aforesaid, shall forfeit all right to carry on any business in this State; and it shall be the duty of the General Assembly to provide for the enforcement of the provisions of this section. All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law, but such disability may be removed by pardon of the Governor. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practices.

Section 151. Person guilty of fraud, intimidation, bribery or corrupt practice to be deprived of office by suitable statutory means. The General Assembly shall provide suitable means for depriving of office any person who, to procure his nomination or election, has, in his canvass or election, been guilty of any unlawful use of money, or other thing of value, or has been guilty of fraud, intimidation, bribery, or any other corrupt practice, and he shall be held responsible for acts done by others with his authority, or ratified by him.

Section 152. Vacancies; when filled by appointment, when by election; who to fill. Except as otherwise provided in this Constitution, vacancies in all elective offices shall be filled by election or appointment, as follows: If the unexpired term will end at the next succeeding annual election at which either city, town, county, district or State officers are to be elected, the office shall be filled by appointment for the remainder of the term. If the unexpired term will not end at the next succeeding annual election at which either city, town, county, district or State officers are to be elected, and if three months intervene before said succeeding annual election at which either city, town, county, district or State officers are to be elected, the office shall be filled by appointment until said election, and then said vacancy shall be filled by election for the remainder of the term.

If three months do not intervene between the happening of said vacancy and the next succeeding election at which city, town, county, district or State offices are to be elected, the office shall be filled by appointment until the second succeeding annual election at which city, town, county, district or State officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular time for the election of officers to fill said offices. Vacancies in all offices for the State at large, or for districts larger than a county, shall be filled by appointment of the Governor; all other appointments shall be made as may be prescribed by law. No person shall ever be appointed a member of the General Assembly, but vacancies therein may be filled at a special election, in such manner as may be provided by law.

How and by whom vacancies filled, Const. 76, 85, 87, 118, 160, 209 and 222.

Section 153. Power of General Assembly as to elections. Except as otherwise herein expressly provided, the General Assembly shall have power to provide by general law for the manner of voting, for ascertaining the result of elections and making due returns thereof, for issuing certificates or commissions to all persons entitled thereto, and for the trial of contested elections.

Local and special laws prohibited, Const. 59.

Section 154. Laws as to sale or gift of liquor on election days. The General Assembly shall prescribe such laws as may be necessary for the restriction or prohibition of the sale or gift of spirituous, vinuous or malt liquors on election days.

Section 155. School elections not governed by Constitution. The provisions of sections 145 to 154, inclusive, shall not apply to the election of school trustees and other common school district elections. Said elections shall be regulated by the General Assembly, except as otherwise provided in this Constitution.

MUNICIPALITIES

Section 156. Cities divided into six classes; general laws to be made for each class; population limits for classes; assignment to classes; organization of cities. The cities and towns of this Commonwealth, for the purposes of their organization and government, shall be divided into six classes. The organization and powers of each class shall be defined and provided for by general laws, so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions. To the first class shall belong cities with a population of one hundred thousand or more; to the second class, cities with a population of twenty

thousand or more, and less than one hundred thousand; to the third class, cities with a population of eight thousand or more, and less than twenty thousand; to the fourth class, cities and towns with a population of three thousand or more, and less than eight thousand; to the fifth class, cities and towns with a population of one thousand or more, and less than three thousand; to the sixth class, towns with a population of less than one thousand. The General Assembly shall assign the cities and towns of the Commonwealth to the classes to which they respectively belong, and change assignments made as the population of said cities and towns may increase or decrease, and in the absence of other satisfactory information as to their population, shall be governed by the last preceding Federal census in so doing; but no city or town shall be transferred from one class to another, except in pursuance of a law previously enacted and providing therefor. The General Assembly, by a general law, shall provide how towns may be organized, and enact laws for the government of such towns until the same are assigned to one or the other of the classes above named; but such assignment shall be made at the first session of the General Assembly after the organization of said town or city.

Urban-county government, KRS Chapter 67A.

Section 157. Maximum tax rate for cities, counties and taxing districts; indebtedness exceeding income provided for year not to be incurred without popular vote. The tax rate of cities, towns, counties, taxing districts and other municipalities, for other than school purposes, shall not, at any time, exceed the following rates upon the value of the taxable property therein, viz.: For all towns or cities having a population of fifteen thousand or more, one dollar and fifty cents on the hundred dollars; for all towns or cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars; for all towns or cities having less than ten thousand, seventy-five cents on the hundred dollars; and for counties and taxing districts, fifty cents on the hundred dollars; unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on, and provide a sinking fund for the extinction of, indebtedness contracted before the adoption of this Constitution. No county, city, town, taxing district, or other municipality, shall be authorized or permitted to become indebted, in any manner or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same.

Taxation by cities and counties, Const. 18.

Section 157A. Credit of Commonwealth may be loaned or given to county for roads; county may vote to incur indebtedness and levy additional tax for roads. The credit of the Commonwealth may be given, pledged or loaned to any county of the Commonwealth for public road purposes, and any county may be permitted to incur an indebtedness in any amount fixed by the county, not in excess of five per centum of the value of the taxable property therein, for public road purposes in said county, provided said additional indebtedness is submitted to the voters of the county for their ratification or rejection at a special election held for said purpose, in such manner as may be provided by law and when any such indebtedness is incurred by any county said county may levy, in addition to the tax rate allowed under section 157 of the Constitution of Kentucky, an amount not exceeding twenty cents on the one hundred dollars of the assessed valuation of said county for the purpose of paying the interest on said indebtedness and providing a sinking fund for the payment of said indebtedness.

Adopted 1909; Credit of Commonwealth not to be loaned, Const. 177.

Section 158. Maximum indebtedness of cities, counties and taxing districts; indebtedness authorized or incurred prior to Constitution. The respective cities, towns, counties, taxing districts, and municipalities shall not be authorized or permitted to incur indebtedness to any amount, including existing indebtedness, in the aggregate exceeding the following named maximum percentages on the value of the taxable property therein, to be estimated by the assessment next before the last assessment previous to the incurring of the indebtedness, viz.: Cities of the first and second classes, and of the third class having a population exceeding fifteen thousand, ten per centum; cities of the third class having a population of less than fifteen thousand, and cities and towns of the fourth class, five per centum; cities and towns of the fifth and sixth classes, three per centum; and counties, taxing districts and other municipalities, two per centum: Provided, Any city, town, county, taxing district or other municipality may contract an indebtedness in excess of such limitations when the same has been authorized under laws in force prior to the adoption of this Constitution, or when necessary for the completion of and payment for a public improvement undertaken and not completed and paid for at the time of the adoption of this Constitution: And provided further, If, at the time of the adoption of this Constitution, the aggregate indebtedness bonded or floating, of any city, town, county, taxing district, or other municipality, including that which it has been or may be authorized to contract as herein provided, shall exceed the limit herein prescribed, then no such city or town shall be authorized or permitted to increase its indebtedness in an amount exceeding two per centum, and

no such county, taxing district or other municipality, in an amount exceeding one per centum, in the aggregate upon the value of the taxable property therein, to be ascertained as herein provided, until the aggregate of its indebtedness shall have been reduced below the limit herein fixed and thereafter it shall not exceed the limit, unless in case of emergency, the public health or safety should so require. Nothing herein shall prevent the issue of renewal bonds, or bonds to fund the floating indebtedness of any city, town, county, taxing district or other municipality.

Law for borrowing money must specify purpose. Const. 178.

Section 159. Tax to pay indebtedness in not more than forty years must be levied. Whenever any city, town, county, taxing district or other municipality is authorized to contract an indebtedness, it shall be required, at the same time, to provide for the collection of an annual tax sufficient to pay the interest on said indebtedness, and to create a sinking fund for the payment of the principal thereof, within not more than forty years from the time of contracting the same.

Section 160. Officers of cities; election or appointment; term, eligibility for succeeding term; qualifications; removal; vacancies. The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: Provided, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified, and of members of legislative boards, two years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive of any city of the first or second class, after the expiration of three successive terms of office to which he has been elected under this Constitution shall be eligible for the succeeding term. No fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. "Fiscal officer" shall not include an Auditor or Assessor, or any

other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled.

Disqualification for dueling, using money or property to secure or influence election, receiving profit on public funds, or accepting free passes, Const. 150, 173, 197, 239; Special laws to legalize unauthorized acts prohibited, Const. 59; Conflict with Judicial Article, Const. 124 and Judicial Article Schedule 5.

Section 161. Compensation of city, county or municipal officer not to be changed after election or appointment or during term, nor term extended. The compensation of any city, county, town or municipal officer shall not be changed after his election or appointment, or during his term of office; nor shall the term of any such officer be extended beyond the period for which he may have been elected or appointed.

Maximum compensation of officers, Const. 246; Salaries of officers not to be changed during term, Const. 235.

Section 162. Unauthorized contracts of cities, counties and municipalities are void. No county, city, town or other municipality shall ever be authorized or permitted to pay any claim created against it, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void.

Section 163. Public utilities must obtain franchise to use streets. No street railway, gas, water, steam heating, telephone, or electric light company, within a city or town, shall be permitted or authorized to construct its tracks, lay its pipes or mains, or erect its poles, posts or other apparatus along, over, under or across the streets, alleys or public grounds of a city or town, without the consent of the proper legislative bodies or boards of such city or town being first obtained; but when charters have been heretofore granted conferring such rights, and work has in good faith been begun thereunder, the provisions of this section shall not apply.

Section 164. Term of franchises limited; advertisement and bids. No county, city, town, taxing district or other municipality shall be authorized or permitted to grant any franchise or privilege, or make any contract in reference thereto, for a term exceeding twenty years. Before granting such franchise or privilege for a term of years, such municipality shall first, after due advertisement, receive bids therefor publicly, and award the same to the highest and best bidder; but it shall have the right to reject any or all bids. This section shall not apply to a trunk railway.

Section 165. Incompatible offices and employments. No person shall, at the same time, be a State officer or a

deputy officer or member of the General Assembly, and an officer of any county, city, town, or other municipality, or an employee thereof; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities, except as may be otherwise provided in this Constitution; but a Notary Public, or an officer of the militia, shall not be ineligible to hold any other office mentioned in this section.

Incompatible offices, Cosnt. 44, 237.

Section 166. Expiration of city charters granted prior to Constitution. All acts of incorporation of cities and towns heretofore granted, and all amendments thereto, except as provided in section 167, shall continue in force under this Constitution, and all City and Police Courts established in any city or town shall remain, with their present powers and jurisdictions, until such time as the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof; but not longer than four years from and after the first day of January, one thousand eight hundred and ninety-one, within which time the General Assembly shall provide by general laws for the government of towns and cities, and the officers and courts thereof, as provided in this Constitution.

Section 167. Time of election of city officers and Police Judges; election years. All city and town officers in this State shall be elected or appointed as provided in the charter of each respective town and city, until the general election in November, eighteen hundred and ninety-three, and until their successors shall be elected and qualified, at which time the terms of all such officers shall expire; and at that election, and thereafter as their terms of office may expire, all officers required to be elected in cities and towns by this Constitution, or by general laws enacted in conformity to its provisions, shall be elected at the general elections in November; but only in the odd years, except members of municipal legislative boards, who may be elected either in the even or odd years or part in the even and part in the odd years: Provided, That the terms of office of Police Judges, who were elected for four years at the August election, eighteen hundred and ninety, shall expire August thirty-first, eighteen hundred and ninety-four, and the terms of Police Judges elected in November, eighteen hundred and ninety-three, shall begin September first, eighteen hundred and ninety-four, and continue until the November election, eighteen hundred and ninety-seven, and until their successors are elected and qualified.

Section 168. Ordinance not to fix less penalty than statute for same offense; prosecution under one a bar. No municipal ordinance shall fix a penalty for a violation thereof at less than that imposed by statute for the same offense. A conviction or acquittal under either

shall constitute a bar to another prosecution for the same offense.

Other sections relating to municipalities: 52, 59, 60, 143, 147, 148, 152, 170, 171, 173, 176, 178, 179, 180, 181, 197, 199, 201, 234, 242.

REVENUE AND TAXATION

Section 169. Fiscal year. The fiscal year shall commence on the first day of July in each year, unless otherwise provided by law.

Section 170. Property exempt from taxation. There shall be exempt from taxation public property used for public purposes; places actually used for religious worship, with the grounds attached thereto and used and appurtenant to the house of worship, not exceeding one-half acre in cities or towns, and not exceeding two acres in the country; places of burial not held for private or corporate profit, institutions of purely public charity, and institutions of education not used or employed for gain by any person or corporation, and the income of which is devoted solely to the cause of education, public libraries, their endowments, and the income of such property as is used exclusively for their maintenance; all parsonages or residences owned by any religious society, and occupied as a home, and for no other purpose, by the minister of any religion, with not exceeding one-half acre of ground in towns and cities and two acres of ground in the country appurtenant thereto; household goods of a person used in his home; crops grown in the year in which the assessment is made, and in the hands of the producer; and real property maintained as the permanent residence of the owner, who is sixty-five years of age or older, or is classified as totally disabled under a program authorized or administered by an agency of the United States government or by the railroad retirement system, provided the property owner received disability payments pursuant to such disability classification, has maintained such disability classification for the entirety of the particular taxation period, and has filed with the appropriate local assessor by December 31 of the taxation period, on forms provided therefor, a signed statement indicating continuing disability as provided herein made under penalty of perjury, up to the assessed valuation of sixty-five hundred dollars on said residence and contiguous real property, except for assessment for special benefits. The real property may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemptions shall apply only to the value of the real property assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property. All laws exempting

or omitting property from taxation other than the property above mentioned shall be void. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal taxation, for a period not exceeding five years, as an inducement to their location.

As amended 1955, 1971, 1975, 1981; Property not to be exempted by General Assembly, Const. 3.

Section 171. State tax to be levied; taxes to be levied and collected for public purposes only and by general laws, and to be uniform within classes; classification of property for taxation; bonds exempt; referendum on act classifying property. The General Assembly shall provide by law an annual tax, which, with other resources, shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year. Taxes shall be levied and collected for public purposes only and shall be uniform upon all property of the same class subject to taxation within the territorial limits of the authority levying the tax; and all taxes shall be levied and collected by general laws.

The General Assembly shall have power to divide property into classes and to determine what class or classes of property shall be subject to local taxation. Bonds of the state and of counties, municipalities, taxing and school districts shall not be subject to taxation.

Any law passed or enacted by the General Assembly pursuant to the provisions of or under this amendment, or amended section of the Constitution, classifying property and providing a lower rate of taxation on personal property, tangible or intangible, than upon real estate shall be subject to the referendum power of the people, which is hereby declared to exist to apply only to this section, or amended section. The referendum may be demanded by the people against one or more items, sections, or parts of any act enacted pursuant to or under the power granted by this amendment, or amended section. The referendum petition shall be filed with the Secretary of State not more than four months after the final adjournment of the Legislative Assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people under this section. All elections on measures referred to the people under this act shall be at the regular general election, except when the Legislative Assembly shall order a special election. Any measure referred to the people shall take effect and become a law when approved by the majority of the votes cast thereon, and not otherwise. The whole number of votes cast for the candidates for Governor at the regular election, last preceding the filing of any petition, shall be the basis upon which the legal voters necessary to sign such petition shall be counted. The power of the referendum shall be ordered by the

Legislative Assembly at any time any acts or bills are enacted, pursuant to the power granted under this section or amended section, prior to the year of one thousand nine hundred and seventeen. After that time the power of the referendum may be ordered either by the petition signed by five per cent of the legal voters or by the Legislative Assembly at the time said acts or bills are enacted. The General Assembly enacting the bill shall provide a way by which the act shall be submitted to the people. The filing of a referendum petition against one or more items, sections or parts of an act, shall not delay the remainder of that act from becoming operative.

As amended 1915; Local and special laws prohibited, Const. 59.

Section 172. Property to be assessed at fair cash value; punishment of assessor for willful error. All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale; and any officer, or other person authorized to assess values for taxation, who shall commit any willful error in the performance of his duty, shall be deemed guilty of misfeasance, and upon conviction thereof shall forfeit his office, and be otherwise punished as may be provided by law.

Property to be taxed according to value, Const. 174.

Section 172A. Assessment of farm land according to value for farm purposes. Notwithstanding contrary provisions of Sections 171, 172, or 174 of this Constitution:

The General Assembly shall provide by general law for the assessment for ad valorem tax purposes of agricultural and horticultural land according to the land's value for agricultural or horticultural use. The General Assembly may provide that any change in land use from agricultural or horticultural to another use shall require the levy of an additional tax not to exceed the additional amount that would have been owing had the land been assessed under Section 172 of this Constitution for the current year and the two next preceding years.

The General Assembly may provide for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing districts on that class of property which includes the surface of the land. Those differences shall relate directly to differences between nonrevenue-producing governmental services and benefits giving land urban character which are furnished in one or several areas in contrast to other areas of the taxing district.

Adopted 1969.

Section 172B. Property assessment or reassessment moratoriums. Notwithstanding contrary provisions of Sections 170, 171, 172, or 174 of this Constitution, the General Assembly may provide by general law that the governing bodies of county, municipal, and urban-county governments may declare property assessment or reassessment moratoriums for qualifying units of real property for the purpose of encouraging the repair, rehabilitation, or restoration of existing improvements thereon. Prior to the enactment of any property assessment or reassessment moratorium program, the General Assembly shall provide or direct the local governing authority to provide property qualification standards for participation in the program and a limitation on the duration of any assessment or reassessment moratorium. In no instance shall any such moratorium extend beyond five years for any particular unit of real property and improvements thereon.

Adopted 1981.

Section 173. Officer receiving profit on public funds guilty of felony. The receiving, directly or indirectly, by any officer of the Commonwealth, or of any county, city or town, or member or officer of the General Assembly, of any interest, profit or perquisites arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State, city, town, district, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

Section 174. Property to be taxed according to value, whether corporate or individual; income, license and franchise taxes. All property, whether owned by natural persons or corporation, shall be taxed in proportion to its value, unless exempted by this Constitution; and all corporate property shall pay the same rate of taxation paid by individual property. Nothing in this Constitution shall be construed to prevent the General Assembly from providing for taxation based on income, licenses or franchises.

License and franchise taxes of counties and cities, Const. 181; Property to be assessed at fair cash value, Const. 172.

Section 175. Power to tax property not to be surrendered. The power to tax property shall not be surrendered or suspended by any contract or grant to which the Commonwealth shall be a party.

Section 176. Commonwealth not to assume debt of county or city; exception. The Commonwealth shall not assume the debt of any county, municipal corporation or political subdivision of the State, unless such debt shall have been contracted to defend itself in time of war, to repel invasion or to suppress insurrection.

Section 177. Commonwealth not to lend credit, nor become stockholder in corporation, nor build railroad or highway. The credit of the Commonwealth shall not be given, pledged or loaned to any individual, company, corporation or association, municipality, or political subdivision of the State; nor shall the Commonwealth become an owner or stockholder in, nor make donation to, any company, association or corporation; nor shall the Commonwealth construct a railroad or other highway.

Credit may be loaned for roads, Const. 157a.

Section 178. Law for borrowing money to specify purpose, for which alone money may be used. All laws authorizing the borrowing of money by and on behalf of the Commonwealth, county or other political subdivision of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose.

Maximum indebtedness limited, Const. 49, 158.

Section 179. Political subdivision not to become stockholder in corporation, or appropriate money or lend credit to any person, except for roads or State Capitol. The General Assembly shall not authorize any county or subdivision thereof, city, town or incorporated district, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association or individual, except for the purpose of constructing or maintaining bridges, turnpike roads, or gravel roads: Provided, If any municipal corporation shall offer to the Commonwealth any property or money for locating or building a Capitol, and the Commonwealth accepts such offer, the corporation may comply with the offer.

Section 180. Poll tax; act or ordinance levying any tax must specify purpose, for which alone money may be used. The General Assembly may authorize the counties, cities or towns to levy a poll tax not exceeding one dollar and fifty cents per head. Every act enacted by the General Assembly, and every ordinance and resolution passed by any county, city, town or municipal board or local legislative body, levying a tax, shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

Section 181. General Assembly may not levy tax for political subdivision, but may confer power; license and excise taxes; city taxes in lieu of ad valorem taxes. The General Assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may, by general laws, confer on the pro-

per authorities thereof, respectively, the power to assess and collect such taxes. The General Assembly may, by general laws only, provide for the payment of license fees on franchises, stock used for breeding purposes, the various trades, occupations and professions, or a special or excise tax; and may, by general laws, delegate the power to counties, towns, cities and other municipal corporations, to impose and collect license fees on stock used for breeding purposes, on franchises, trades, occupations and professions. And the General Assembly may, by general laws only, authorize cities or towns of any class to provide for taxation for municipal purposes on personal property, tangible and intangible, based on income, licenses or franchises, in lieu of an ad valorem tax thereon: Provided, Cities of the first class shall not be authorized to omit the imposition of an ad valorem tax on such property of any steam railroad, street railway, ferry, bridge, gas, water, heating, telephone, telegraph, electric light or electric power company.

As amended, 1903: Cities are authorized to levy all taxes provided for in Const. 181.

Section 182. Railroad taxes; how assessed and collected. Nothing in this Constitution shall be construed to prevent the General Assembly from providing by law how railroads and railroad property shall be assessed and how taxes thereon shall be collected. And until otherwise provided, the present law on said subject shall remain in force.

Cities, counties and taxing districts, Const. 157, 157a, 158, 159. Other sections relating to revenue and taxation: 3, 50, 59, 184, 189, 230.

EDUCATION

Section 183. General Assembly to provide for school system. The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State.

Local and special laws prohibited, Const. 59.

Section 184. Common School Fund; what constitutes; use; vote on tax for education other than in common schools. The bond of the Commonwealth issued in favor of the Board of Education for the sum of one million three hundred and twenty-seven thousand dollars shall constitute one bond of the Commonwealth in favor of the Board of Education, and this bond and the seventy-three thousand five hundred dollars of the stock in the Bank of Kentucky, held by the Board of Education, and its proceeds, shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said fund, together with any sum which may be produced by taxation or otherwise for purposes of common school

education, shall be appropriated to the common schools, and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation: Provided, The tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law.

Section 185. Interest on school fund; investment. The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock, the proceeds of sale shall be invested by the Sinking Fund Commission in other good interest-bearing stocks or bonds, which shall be subject to sale and reinvestment, from time to time, in like manner, and with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky.

Section 186. Distribution and use of school fund. All funds accruing to the school fund shall be used for the maintenance of the public schools of the Commonwealth, and for no other purpose, and the General Assembly shall by general law prescribe the manner of the distribution of the public school fund among the school districts and its use for public school purposes.

As amended 1953. This amendment nullified a 1949 amendment which changed the percentage of school funds to be distributed on a per capita basis.

Section 187. White and colored to share fund without distinction; separate schools. In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

It was conceded by the Superintendent of Public Instruction that this section was unconstitutional in light of the U.S. Supreme decision in "Brown v. Board of Education" (1954) and other cases.

Section 188. Refund of Federal direct tax part of school fund; irredeemable bond. So much of any moneys as may be received by the Commonwealth from the United States under the recent act of Congress refunding the direct tax shall become a part of the school fund, and be held as provided in section 184; but the General Assembly may authorize the use, by the Commonwealth, of moneys so received or any part thereof, in which event a bond shall be executed to the Board of Education for the amount so used, which bond shall be held on the same terms and conditions, and subject to the provisions of section 184, concerning the bond therein referred to.

Section 189. School money not to be used for church, sectarian or denominational school. No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school.

CORPORATIONS

Section 190. Corporations must accept Constitution. No corporation in existence at the time of the adoption of this Constitution shall have the benefit of future legislation without first filing in the office of the Secretary of State an acceptance of the provisions of this Constitution.

Section 191. Unexercised charters granted prior to Constitution revoked. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place, and business been commenced in good faith at the time of the adoption of this Constitution, shall thereafter be void and of no effect.

Section 192. Corporations restricted to charter authority; holding of real estate limited. No corporation shall engage in business other than that expressly authorized by its charter, or the law under which it may have been or hereafter may be organized, nor shall it hold any real estate, except such as may be proper and necessary for carrying on its legitimate business, for a longer period than five years, under penalty of escheat.

Local and special laws prohibited, Const. 59.

Section 193. Stock or bonds to be issued only for money or for property or labor at market value; watered stock void. No corporation shall issue stock or bonds, except for an equivalent in money paid or labor done, or property actually received and applied to the purposes for which such corporation was created, and neither labor nor property shall be received in payment of stock or bonds at a greater value than the market price at the time such labor was done or property delivered, and all fictitious increase of stock or indebtedness shall be void.

Section 194. Corporations to have place of business and process agent in State. All corporations formed under the laws of this State, or carrying on business in this State, shall, at all times, have one or more known places of business in this State, and an authorized agent or agents there, upon whom process may be executed, and the General Assembly shall enact laws to carry into effect the provisions of this section.

Section 195. Corporation property subject to eminent domain; corporations not to infringe upon individuals. The Commonwealth, in the exercise of the right of eminent domain, shall have and retain the same powers to

take the property and franchises of incorporated companies for public use which it has and retains to take the property of individuals, and the exercise of the police powers of this Commonwealth shall never be abridged nor so construed as to permit corporations to conduct their business in such manner as to infringe upon the equal rights of individuals.

Taking private property for public use, Const. 13, 242.

Section 196. Regulation of common carriers; no relief from common law liability. Transportation of freight and passengers by railroad, steamboat or other common carrier, shall be so regulated, by general law, as to prevent unjust discrimination. No common carrier shall be permitted to contract for relief from its common law liability.

Railroads, traffic with connecting carriers, discrimination prohibited, Const. 213, 215.

Section 197. Free passes or reduced rates to officers forbidden. No railroad, steamboat, or other common carrier, under heavy penalty to be fixed by the General Assembly, shall give a free pass or passes, or shall, at reduced rates not common to the public, sell tickets for transportation to any State, district, city, town or county officer, or member of the General Assembly, or Judge; and any State, district, city, town or county officer, or member of the General Assembly, or Judge, who shall accept or use a free pass or passes, or shall receive or use tickets or transportation at reduced rates not common to the public, shall forfeit his office. It shall be the duty of the General Assembly to enact laws to enforce the provisions of this section.

Section 198. Trusts and combinations in restraint of trade to be prevented. It shall be the duty of the General Assembly from time to time, as necessity may require, to enact such laws as may be necessary to prevent all trusts, pools, combinations or other organizations, from combining to depreciate below its real value any article, or to enhance the cost of any article above its real value.

Section 199. Telegraph and telephone companies; right to construct lines; exchange of messages. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph within this State, and to connect the same with other lines, and said companies shall receive and transmit each other's messages without unreasonable delay or discrimination, and all such companies are hereby declared to be common carriers and subject to legislative control. Telephone companies operating exchanges in different towns and cities, or other public stations, shall receive and transmit each other's messages without unreasonable delay or discrimination. The General Assembly shall, by general laws of uniform

operation, provide reasonable regulations to give full effect to this section. Nothing herein shall be construed to interfere with the rights of cities or towns to arrange and control their streets and alleys, and to designate the places at which, and the manner in which, the wires of such companies shall be erected or laid within the limits of such city or town.

Section 200. Domestic corporation consolidating with foreign does not become foreign. If any railroad, telegraph, express, or other corporation, organized under the laws of this Commonwealth, shall consolidate by sale or otherwise, with any railroad, telegraph, express or other corporation organized under the laws of any other State, the same shall not thereby become a foreign corporation, but the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this State in all matters which may arise, as if said consolidation had not taken place.

Section 201. Public utility company not to consolidate with, acquire or operate competing or parallel system; common carriers not to share earnings with one not carrying; telephone companies excepted under certain conditions. No railroad, telegraph, telephone, bridge or common carrier company shall consolidate its capital stock, franchises, or property, or pool its earnings, in whole or in part, with any other railroad, telegraph, telephone, bridge or common carrier company owning a parallel or competing line or structure, or acquire by purchase, lease or otherwise, any parallel or competing line or structure, or operate the same; nor shall any railroad company or other common carrier combine or make any contract with the owners of any vessel that leaves or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying: Provided, however, That telephone companies may acquire by purchase or lease, or otherwise, and operate, parallel or competing exchanges, lines and structures, and the property of other telephone companies, if the Railroad Commission or such other State commission as may have jurisdiction over such matters shall first consent thereto, and if, further, each municipality wherein such property or any part thereof is located shall also first consent thereto as to the property within its limits, but under any such acquisition and operation toll line connections with the property so acquired shall be continued and maintained under any agreement between the purchasing company and the toll line companies than furnishing such service, and in the event they are unable to agree as to the terms of such an agreement the Railroad Commission or such other State commission as may have jurisdiction over such matters, shall fix the term of such agreement.

As amended 1917.

Section 202. Foreign corporations not be given privileges over domestic. No corporation organized outside the limits of this State shall be allowed to transact business within the State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this Commonwealth.

Section 203. Liabilities under corporate franchise not released by lease or alienation. No corporation shall lease or alienate any franchise so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

Section 204. Bank officer liable for receiving deposit for insolvent bank. Any President, Director, Manager, Cashier or other officer of any banking institution or association for the deposit or loan of money, or any individual banker, who shall receive or assent to the receiving of deposits after he shall have knowledge of the fact that such banking institution or association or individual banker is insolvent, shall be individually responsible for such deposits so received, and shall be guilty of felony and subject to such punishment as shall be prescribed.

Section 205. Forfeiture of corporate charters in case of abuse or detrimental use. The General Assembly shall, by general laws, provide for the revocation or forfeiture of the charters of all corporations guilty of abuse or misuse of their corporate powers, privileges or franchises, or whenever said corporations become detrimental to the interest and welfare of the Commonwealth or its citizens.

Section 206. Warehouses subject to legislative control; inspection; protection of patrons. All elevators or storehouses, where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses, subject to legislative control, and the General Assembly shall enact laws for the inspection of grain, tobacco and other produce, and for the protection of producers, shippers and receivers of grain, tobacco and other produce.

Section 207. Cumulative voting for directors of corporations; proxies. In all elections for directors or managers of any corporation, each shareholder shall have the right to cast as many votes in the aggregate as he shall be entitled to vote in said company under its charter, multiplied by the number of directors or managers to be elected at such election; and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute such votes among two or more candidates, and such directors or managers shall not be elected in any other manner.

Section 208. "Corporation" includes joint stock company or association. The word "corporation" as used in this Constitution shall embrace joint stock companies and associations.

Other sections relating to corporations: 52, 59, 150, 163, 174, 177, 179, 209, 210, 218, 241, 242, 244.

RAILROADS AND COMMERCE

Section 209. Railroad Commission; election, term and qualifications of Commissioners; Commissioners' districts; powers and duties; removal; vacancies. A commission is hereby established, to be known as "The Railroad Commission," which shall be composed of three Commissioners. During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified. At the regular election in eighteen hundred and ninety-five and every four years thereafter the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next preceding his election. Any vacancy in this office shall be filled as provided in section 152 of this Constitution. The General Assembly may from time to time change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each District. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and, until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioner out of office by similar proceedings as in the case of Judges of the Court

of Appeals; and the General Assembly shall enact laws to prevent the nonfeasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

Section 210. Common carrier corporation not to be interested in other business. No corporation engaged in the business of common carrier shall, directly or indirectly, own, manage, operate, or engage in any other business than that of a common carrier, or hold, own, lease or acquire, directly or indirectly, mines, factories or timber, except such as shall be necessary to carry on its own business, and the General Assembly shall enact laws to give effect to the provisions of this section.

Section 211. Foreign railroad corporation may not condemn or acquire real estate. No railroad corporation organized under the laws of any other State, or of the United States, and doing business, or proposing to do business, in this State, shall be entitled to the benefit of the right of eminent domain or have power to acquire the right of way of real estate for depot or other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this Commonwealth.

Section 212. Rolling stock, earnings and personal property of railroads subject to execution or attachment. The rolling stock and other movable property belonging to any railroad corporation or company in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals. The earnings of any railroad company or corporation, and choses in action, money and personal property of all kinds belonging to it, in the hands, or under the control, of any officer, agent or employee of such corporation or company, shall be subject to process of attachment to the same extent and in the same manner, as like property of individuals when in the hands or under the control of other persons. Any such earnings, choses in action, money or other personal property may be subjected to the payment of any judgment against such corporation or company, in the same manner and to the same extent as such property of individuals in the hands of third persons.

Section 213. Railroad companies to handle traffic with connecting carriers without discrimination. All railroad, transfer, belt lines and railway bridge companies organized under the laws of Kentucky, or operating, maintaining or controlling any railroad, transfer, belt lines or bridges, or doing a railway business in this State, shall receive, transfer, deliver and switch empty or loaded cars, and shall move, transport, receive, load or unload all the freight in car loads or less quantities, coming to or going from any railroad, transfer, belt line, bridge or siding thereon, with equal promptness and dispatch, and without any discrimina-

tion as to charges, preference, drawback or rebate in favor of any person, corporation, consignee or consignor, in any matter as to payment, transportation, handling or delivery; and shall so receive, deliver, transfer and transport all freight as above set forth, from and to any point where there is a physical connection between the tracks of said companies. But this section shall not be construed as requiring any such common carrier to allow the use of its tracks for the trains of another engaged in like business.

Regulation of transportation of freight and passengers by railroads to prevent unjust discrimination, Const. 196.

Section 214. Railroad not to make exclusive or preferential contract. No railway, transfer, belt line or railway bridge company shall make any exclusive or preferential contract or arrangement with any individual, association or corporation, for the receipt, transfer, delivery, transportation, handling, care or custody of any freight, or for the conduct of any business as a common carrier.

Section 215. Freight to be handled without discrimination. All railway, transfer, belt lines or railway bridge companies shall receive, load, unload, transport, haul, deliver and handle freight of the same class for all persons, associations or corporations from and to the same points and upon the same conditions, in the same manner and for the same charges, and for the same method of payment.

Section 216. Railroad must allow tracks of others to cross or unite. All railway, transfer, belt lines and railway bridge companies shall allow the tracks of each other to unite, intersect and cross at any point where such union, intersection and crossing is reasonable or feasible.

Section 217. Penalties for violating Sections 213, 214, 215 or 216; Attorney-General to enforce. Any person, association or corporation, willfully or knowingly violating any of the provisions of sections 213, 214, 215, or 216, shall, upon conviction by a court of competent jurisdiction, for the first offense be fined two thousand dollars; for the second offense five thousand dollars; and for the third offense, shall thereupon, ipso facto, forfeit its franchises, privileges or charter rights; and if such delinquent be a foreign corporation, it shall, ipso facto, forfeit its right to do business in this State; and the Attorney-General of the Commonwealth shall forthwith, upon notice of the violation of any of said provisions, institute proceedings to enforce the provisions of the aforesaid sections.

Section 218. Long and short hauls. It shall be unlawful for any person or corporation, owning or operating a railroad in this State, or any common carrier, to charge or receive any greater compensation in

the aggregate for the transportation of passengers, or of property of like kind, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, or person or corporation, owning or operating a railroad in this State, to receive as great compensation for a shorter as for a longer distance: Provided, That upon application to the Railroad Commission, such common carrier, or person or corporation owning or operating a railroad in this State, may in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers, or property; and the Commission may, from time to time, prescribe the extent to which such common carrier, or person or corporation, owning or operating a railroad in this State, may be relieved from the operation of this section.

Other sections relating to railroads; 59, 177, 182, 196, 197, 200, 201.

THE MILITIA

Section 219. Militia, what to consist of. The militia of the Commonwealth of Kentucky shall consist of all able-bodied male residents of the State between the ages of eighteen and forty-five years, except such persons as may be exempted by the laws of the State or of the United States.

Section 220. General Assembly to provide for militia; exemptions from service. The General Assembly shall provide for maintaining an organized militia, and may exempt from military service persons having conscientious scruples against bearing arms; but such persons shall pay an equivalent for such exemption.

Section 221. Government of militia to conform to Army regulations. The organization, equipment and discipline of the militia shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Section 222. Officers of militia; Adjutant-General. All militia officers whose appointment is not herein otherwise provided for, shall be elected by persons subject to military duty within their respective companies, battalions, regiments or other commands, under such rules and regulations and for such terms, not exceeding four years, as the General Assembly may, from time to time, direct and establish. The Governor shall appoint an Adjutant-General and his other staff officers; the generals and commandants of regiments and battalions shall respectively appoint their staff officers, and the commandants of companies shall, subject to the approval of their regimental or battalion commanders, ap-

point their noncommissioned officers. The Governor shall have power to fill vacancies that may occur in elective offices by granting commissions which shall expire when such vacancies have been filled according to the provisions of this Constitution.

Governor is Commander-in-Chief of militia, Const. 75.

Section 223. Safekeeping of public arms, military records, relics and banners. The General Assembly shall provide for the safekeeping of the public arms, military records, relics and banners of the Commonwealth of Kentucky.

Section 224. Bonds; what officers to give; liability on. The General Assembly shall provide by a general law what officers shall execute bond for the faithful discharge of their duties, and fix the liability therein.

When officers to give bond, Const. 103.

Section 225. Armed men not to be brought into State; exception. No armed person or bodies of men shall be brought into this State for the preservation of the peace or the suppression of domestic violence, except upon the application of the General Assembly, or of the Governor when the General Assembly may not be in session.

GENERAL PROVISIONS

Section 226. Lotteries and gift enterprises forbidden. Lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 227. Prosecution and removal of local officers for misfeasance, malfeasance or neglect. Judges of the County Court, Justices of the Peace, Sheriffs, Coroners, Surveyors, Jailers, Assessors, County Attorneys and Constables shall be subject to indictment or prosecution for misfeasance or malfeasance in office, or willful neglect in discharge of official duties, in such mode as may be prescribed by law, and upon conviction his office shall become vacant, but such officer shall have the right to appeal to the Court of Appeals. Provided, also, that the General Assembly may, in addition to the indictment or prosecution above provided, by general law, provide other manner, method or mode for the vacation of office, or the removal from office of any sheriff, jailer, constable or peace officer for neglect of duty, and may provide the method, manner or mode of reinstatement of such officers.

As amended 1919; Appeal to Supreme Court subject to Supreme Court rules, Const. 110(2)(a).

Section 228. Oath of officers and attorneys. Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of . . . according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

Manner of administering oaths, Const. 232; Form of oath altered on pardon of person convicted of dueling, Const. 240.

Section 229. "Treason" defined; evidence necessary to convict. Treason against the Commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

Power of pardon for treason vested in General Assembly, Const. 77.

Section 230. Money not to be drawn from Treasury unless appropriated; annual publication of accounts; certain revenues usable only for highway purposes. No money shall be drawn from the State Treasury, except in pursuance of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published annually. No money derived from excise or license taxation relating to gasoline and other motor fuels, and no monies derived from fees, excise or license taxation relating to registration, operation, or use of vehicles on public highways shall be expended for other than the cost of administration, statutory refunds and adjustments, payment of highway obligations, costs for construction, reconstruction, rights-of-way, maintenance and repair of public highways and bridges, and expense of enforcing state traffic and motor vehicle laws.

As amended 1945.

Section 231. Suits against the Commonwealth. The General Assembly may, by law, direct in what manner

and in what courts suits may be brought against the Commonwealth.

Claims against the State, Const. 58.

Section 232. Manner of Administering oath. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the General Assembly the most solemn appeal of God.

Section 233. General laws of Virginia in force in this State until repealed. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature and not local to that State, and not repugnant to this Constitution, nor to the laws which have been enacted by the General Assembly of this Commonwealth, shall be in force within this State until they shall be altered or repealed by the General Assembly.

Section 234. Residence and place of office of public officers. All civil officers for the State at large shall reside within the State, and all district, county, city or town officers shall reside within their respective districts, counties, cities or towns, and shall keep their offices at such places therein as may be required by law.

Section 235. Salaries of public officers not to be changed during term; deductions for neglect. The salaries of public officers shall not be changed during the terms for which they were elected; but it shall be the duty of the General Assembly to regulate, by a general law, in what cases and what deductions shall be made for neglect of official duties. This section shall apply to members of the General Assembly also.

Compensation of local officers not to be changed during term, Const. 161; Maximum limit on salaries, Const. 246.

Section 236. When officers to enter upon duties. The General Assembly shall, by law, prescribe the time when the several officers authorized or directed by this Constitution to be elected or appointed, shall enter upon the duties of their respective offices, except where the time is fixed by this Constitution.

Oath to be taken and bond executed before entering upon duties, Const. 103, 228.

Section 237. Federal office incompatible with State office. No member of Congress, or person holding or exercising an office of trust or profit under the United States, or any of them, or under any foreign power, shall be eligible to hold or exercise any office of trust or profit under this Constitution, or the laws made in pursuance thereof.

Incompatible offices, Const. 44, 165.

Section 238. Discharge of sureties on officers' bonds. The General Assembly shall direct by law how persons who now are, or may hereafter become, sureties for public officers, may be relieved of or discharged from suretyship.

Section 239. Disqualification from office for presenting or accepting challenge to duel; further punishment. Any person who shall, after the adoption of this Constitution, either directly or indirectly, give, accept or knowingly carry a challenge to any person or persons to fight in single combat, with a citizen of this State with a deadly weapon, either in or out of the state, shall be deprived of the right to hold any office of honor or profit in this Commonwealth; and if said acts, or any of them, be committed within this State, the person or persons so committing them shall be further punished in such manner as the General Assembly may prescribe by law.

Oath as to dueling, Const. 228.

Section 240. Pardon of person convicted of dueling. The Governor shall have power, after five years from the time of the offense, to pardon any person who shall have participated in a duel as principal, second or otherwise, and to restore him to all the rights, privileges and immunities to which he was entitled before such participation. Upon presentation of such pardon the oath prescribed in section 228 shall be varied to suit the case.

Section 241. Recovery for wrongful death. Whenever the death of a person shall result from an injury inflicted by negligence or wrongful act, then, in every such case, damages may be recovered for such death, from the corporations and persons so causing the same. Until otherwise provided by law, the action to recover such damages shall in all cases be prosecuted by the personal representative of the deceased person. The General Assembly may provide how the recovery shall go and to whom belong; and until such provision is made, the same shall form part of the personal estate of the deceased person.

Recovery for injury or death not to be limited, Const. 54.

Section 242. Just compensation to be made in condemning private property; right of appeal; jury trial. Municipal and other corporations, and individuals invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by them; which compensation shall be paid before such taking, or paid or secured, at the election of such corporation or individual, before such injury or destruction. The General Assembly shall not deprive any person of an appeal from any preliminary assessment of damages against any such corporation or individual made by Commissioners or

otherwise; and upon appeal from such preliminary assessment, the amount of such damages shall, in all cases, be determined by a jury, according to the course of the common law.

Private property not to be taken without compensation, Const. 13.

Section 243. Child labor. The General Assembly shall, by law, fix the minimum ages at which children may be employed in places dangerous to life or health, or injurious to morals; and shall provide adequate penalties for violations of such law.

Section 244. Wage-earners in industry or of corporations to be paid in money. All wage-earners in this State employed in factories, mines, workshops, or by corporations, shall be paid for their labor in lawful money. The General Assembly shall prescribe adequate penalties for violation of this section.

Section 244A. Old age assistance. The General Assembly shall prescribe such laws as may be necessary for the granting and paying of old persons an annuity or pension.

Adopted 1935.

Section 245. Revision of statutes to conform to Constitution. Upon the promulgation of this Constitution, the Governor shall appoint three persons, learned in the law, who shall be Commissioners to revise the statute laws of this Commonwealth, and prepare amendments thereto, to the end that the statute laws shall conform to and effectuate this Constitution. Such revision and amendments shall be laid before the next General Assembly for adoption or rejection, in whole or in part. The said Commissioners shall be allowed ten dollars each per day for their services, and also necessary stationary for the time during which they are actually employed; and upon their certificate the Auditor shall draw his warrant upon the Treasurer. They shall have the power to employ clerical assistants, at a compensation not exceeding ten dollars per day in the aggregate. If the Commissioners, or any of them, shall refuse to act, or a vacancy shall occur the Governor shall appoint another or others in his or their place.

Section 246. Maximum limit or compensation of public officers. No public officer or employe except the Governor, shall receive as compensation per annum for official services, exclusive of the compensation of legally authorized deputies and assistants which shall be fixed and provided for by law, but inclusive of allowance for living expenses, if any, as may be fixed and provided for by law, any amount in excess of the following sums: Officers whose jurisdiction or duties are coextensive with the Commonwealth, the mayor of any city of the first class, and Judges and Commissioners of the Court

of Appeals, Twelve Thousand Dollars (\$12,000); Circuit Judges, Eight Thousand Four Hundred Dollars (\$8,400); all other public officers Seven Thousand Two Hundred Dollars, (\$7,200). Compensation within the limits of this amendment may be authorized by the General Assembly to be paid, but not retroactively, to public officers in office at the time of its adoption, or who are elected at the election at which this amendment is adopted. Nothing in this amendment shall permit any officer to receive, for the year 1949, any compensation in excess of the limit in force prior to the adoption of this amendment.

As amended 1949; Compensation not to be changed during term, Const. 161, 235; Compensation of Governor, KRS 64.480; Deductions for neglect of duty, Const. 235.

Section 247. Public printing; contract for; officers not to have interest in; Governor to approve. The printing and binding of the laws, journals, department reports, and all other public printing and binding, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum and under such regulations as may be prescribed by law. No member of the General Assembly, or officer of the Commonwealth, shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the Governor.

Section 248. Juries; number of jurors; three-fourths may indict or give verdict. A grand jury shall consist of twelve persons, nine of whom concurring, may find an indictment. In civil and misdemeanor cases, in courts inferior to the Circuit Courts, a jury shall consist of six persons. The General Assembly may provide that in any or all trials of civil actions in the Circuit Courts, three-fourths or more of the jurors concurring may return a verdict, which shall have the same force and effect as if rendered by the entire panel. But where a verdict is rendered by a less number than the whole jury, it shall be signed by all the jurors who agree to it.

Right to jury trial, Const. 7; Local and special laws prohibited, Const. 59.

Section 249. Employees of General Assembly; number and compensation. The House of Representatives of the General Assembly shall not elect, appoint, employ or pay for, exceeding one Chief Clerk, one Assistant Clerk, one Enrolling Clerk, one Sergeant at Arms, one Doorkeeper, one Janitor, two Cloakroom Keepers and four Pages; and the Senate shall not elect, appoint, employ or pay for, exceeding one Chief Clerk, one Assistant Clerk, one Enrolling Clerk, one Sergeant at Arms, one Doorkeeper, one Janitor, one Cloakroom Keeper and three Pages; and the General Assembly shall provide, by general law, for fixing the per diem or salary of all of said employees.

Officers of General Assembly, Const. 34.

Section 250. Arbitration, method for to be provided. It shall be the duty of the General Assembly to enact such laws as shall be necessary and proper to decide differences by arbitrators, the arbitrators to be appointed by the parties who may choose that summary mode of adjustment.

Section 251. Limitation of actions to recover possession of land based on early patents. No action shall be maintained for possession of any lands lying within this State, where it is necessary for the claimant to rely for his recovery on any grant or patent issued by the Commonwealth of Virginia, or by the Commonwealth of Kentucky prior to the year one thousand eight hundred and twenty, against any person claiming such lands by possession to a well-defined boundary, under a title of record, unless such action shall be instituted within five years after this Constitution shall go into effect, or within five years after the occupant may take possession; but nothing herein shall be construed to affect any right, title or interest in lands acquired by virtue of adverse possession under the laws of this Commonwealth.

Interest in lands derived from Virginia not to be impaired by Kentucky, Compact with Virginia, Section 7 to 10.

Section 252. Houses of Reform to be established and maintained. It shall be the duty of the General Assembly to provide by law, as soon as practicable, for the establishment and maintenance of an institution or institutions for the detention, correction, instruction and reformation of all persons under the age of eighteen years, convicted of such felonies and such misdemeanors as may be designated by law. Said institution shall be known as the "House of Reform."

Section 253. Working of penitentiary prisoners; when and where permitted. Persons convicted of felony and sentenced to confinement in the penitentiary shall be confined at labor within the walls of the penitentiary; and the General Assembly shall not have the power to authorize employment of convicts elsewhere, except upon the public works of the Commonwealth of Kentucky, or when, during pestilence or in case of the destruction of the prison buildings, they cannot be confined in the penitentiary.

That section 253 of the Constitution be so amended that the Commonwealth of Kentucky may use and employ outside of the walls of the penitentiaries in such manner and means as may be provided by law, persons convicted of felony and sentenced to confinement in the penitentiary for the purpose of constructing or reconstructing and maintaining public roads and public bridges or for the purpose of making and preparing material for public roads and bridges, and that the Commonwealth of Kentucky may, by the use and employment of convict labor outside of the walls of the

penitentiary by other ways or means, as may be provided by law, aid the counties for road and bridge purposes, work on the State farm or farms.

As amended 1915.

Section 254. Control and support of convicts; leasing of labor. The Commonwealth shall maintain control of the discipline, and provide for all supplies, and for the sanitary condition of the convicts, and the labor only of convicts may be leased.

Section 255. Frankfort is State Capital. The seat of government shall continue in the city of Frankfort, unless removed by vote of two-thirds of each House of the first General Assembly which convenes after the adoption of this Constitution.

MODE OF REVISION

Section 256. Amendments to Constitution; how proposed and voted upon. Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election for members of the House of Representatives, the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than four amendments shall be voted upon at any one time. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The approval of the Governor shall not be necessary to

any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Section 257. Publication of proposed amendments. Before an amendment shall be submitted to a vote, the Secretary of State shall cause such proposed amendment, and the time that the same is to be voted upon, to be published at least ninety days before the vote is to be taken thereon in such manner as may be prescribed by law.

Section 258. Constitutional Convention; how proposed, voted upon and called. When a majority of all the members elected to each House of the General Assembly shall concur, by a yea and nay vote, to be entered upon their respective journals, in enacting a law to take the sense of the people of the State as to the necessity and expediency of calling a Convention for the purpose of revising or amending this Constitution, and such amendments as may have been made to the same, such law shall be spread upon their respective journals. If the next General Assembly shall, in like manner, concur in such law, it shall provide for having a poll opened in each voting precinct in this state by the officers provided by law for holding general elections at the next ensuing regular election to be held for State officers or members of the House of Representatives, which does not occur within ninety days from the final passage of such law, at which time and places the votes of the qualified voters shall be taken for and against calling the Convention, in the same manner provided by law for taking votes in other State elections. The vote for and against said proposition shall be certified to the Secretary of State by the same officers and in the same manner as in State elections. If it shall appear that a majority voting on the proposition was for calling a Convention, and if the total number of votes cast for the calling of the Convention is equal to one-fourth of the number of qualified voters who voted at the last preceding general election in this State, the Secretary of State shall certify the same to the General Assembly at its next regular session, at which session a law shall be enacted calling a Convention to readopt, revise or amend this Constitution, and such amendments as may have been made thereto.

Section 259. Number and qualifications of delegates. The Convention shall consist of as many delegates as there are members of the House of Representatives; and the delegates shall have the same qualifications and be elected from the same districts as said Representatives.

Section 260. Election of delegates; meeting. Delegates to such Convention shall be elected at the next general State election after the passage of the act calling the Convention, which does not occur within less than ninety days; and they shall meet within ninety days after their election at the Capital of the State, and continue in session until their work is completed.

Section 261. Certification of election and compensation of delegates. The General Assembly, in the act calling the convention, shall provide for comparing the polls and giving certificates of election to the delegates elected, and provide for their compensation.

Section 262. Determination of election and qualifications of delegates; contest. The Convention, when assembled, shall be the judge of the election and qualification of its members, and shall determine contested elections. But the General Assembly shall, in the act calling the Convention, provide for taking testimony in such cases, and for issuing a writ of election in case of a tie.

Section 263. Notice of election on question of calling Convention. Before a vote is taken upon the question of calling a Convention, the Secretary of State shall cause notice of the election to be published in such manner as may be provided by the act directing said vote to be taken.

SCHEDULE

That no inconvenience may arise from the alterations and amendments made in this Constitution, and in order to carry the same into complete operation, it is hereby declared and ordained:

First: That all laws of this Commonwealth in force at the time of the adoption of this Constitution, not inconsistent therewith, shall remain in full force until altered or repealed by the General Assembly; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals or bodies corporate, not inconsistent therewith, shall continue as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions as require legislation to enforce them shall remain in force until such legislation is had, but not longer than six years after the adoption of this Constitution, unless sooner amended or repealed by the General Assembly.

Second: That all recognizances, obligations and all other instruments entered into or executed before the adoption of this Constitution, to the State, or to any city, town, county or subdivision thereof, and all fines, taxes, penalties and forfeitures due or owing to this State, or to any city, town, county or subdivision thereof; and all writs, prosecutions, actions and causes of action, except as otherwise herein provided, shall continue and remain unaffected by the adoption of this Constitution. And all indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be prosecuted as if no change had taken place, except as otherwise provided in this Constitution.

Third: All Circuit, Chancery, Criminal, Law and Equity, Law, and Common Pleas Courts, as now constituted and organized by law, shall continue with their respective jurisdictions until the Judges of the Circuit Courts provided for in this Constitution shall have been elected and qualified, and shall then cease and determine; and the causes, actions and proceedings then pending in said first named courts, which are discontinued by this Constitution, shall be transferred to, and tried by, the Circuit Courts in the counties, respectively, in which said causes, actions and proceedings are pending.

Fourth: The Treasurer, Attorney-General, Auditor of Public Accounts, Superintendent of Public Instruction, and Register of the Land Office, elected in eighteen hundred and ninety-one, shall hold their offices until the first Monday in January, eighteen hundred and ninety-six, and until the election and qualification of their successors. The Governor and Lieutenant Governor elected in eighteen hundred and ninety-one shall hold their offices until the sixth Tuesday after the first Monday in November, eighteen hundred and ninety-five, and until their successors are elected and qualified. The Governor and Treasurer elected in eighteen hundred and ninety-one shall be ineligible to the succeeding term. The Governor elected in eighteen hundred and ninety-one may appoint a Secretary of State and a Commissioner of Agriculture, Labor and Statistics, as now provided, who shall hold their offices until their successors are elected and qualified, unless sooner removed by the Governor. The official bond of the present Treasurer shall be renewed at the expiration of two years from the time of his qualification.

Fifth: All officers who may be in office at the adoption of this Constitution, or who may be elected before the election of their successors, as provided in this Constitution, shall hold their respective offices until their successors are elected or appointed and qualified as provided in this Constitution.

Sixth: The Quarterly Courts created by this Constitution shall be the successors of the present statutory Quarterly Courts in the several counties of this State; and all suits, proceedings, prosecutions, records and judgments now pending or being in said last named courts shall, after the adoption of this Constitution, be transferred to the Quarterly Courts created by this Constitution, and shall proceed as though the same had been therein instituted.

ORDINANCE

We, the representatives of the people of Kentucky, in Convention assembled, in their name and by their authority and in virtue of the power vested in us as Delegates from the counties and districts respectively affixed to our names, do ordain and proclaim the forego-

ing to be the Constitution of the Commonwealth of Kentucky from and after this date.

Done at Frankfort this twenty-eighth day of September, in the year of our Lord one thousand eight hundred and ninety-one, and in the one hundredth year of the Commonwealth.

CONSTITUTION SECTION INDEX

Section of Constitution	Report Page Number	Section of Constitution	Report Page Number	Section of Constitution	Report Page Number
1	65,66,70,71	100	104	196	135
2	71	101	103	197	135
3	71	102	102	198	131
4	71	103	105	199	135
5	71	104	103	200	131
6	71	105	102	201	135
7	71	106	106	202	131
8	71	109	51	203	131
9	71	117	21	204	141
10	69,71	119	21	205	131
11	71	140	107	206	142
12	71,74	142	107	207	131
13	71	144	107	208	131
14	71	145	76	209	79,135
15	71	146	78	210	135
16	71	148	75	211	135
17	71	156	109	212	135
18	71	157	54	213	135
19	71	157A	55	214	135
20	71	160	110	215	135
21	71	161	111	216	135
22	71	165	112	217	135
23	71	166	113	218	135
24	71	167	115	226	81
25	71	168	117	227	118
26	71	170	50,53	228	82
46	17	171	11,12,53	229	83
52	52	172	53	231	23
53	12	174	53	234	84
54	19	180	57	238	85
61	101	181	47	239	86
64	102	183	29	240	87
70	11	184	30	244A	36
71	18	185	32	245	12,88
82	11,18	187	33	246	90
84	16	188	34	249	20
87	11,12	189	35	252	37
88	11,12	190	11,12,131	253	38
91	11,12,40	191	131	254	39
93	11,12,18,40	192	131	256	11,12
94	12	193	131	257	11,12
95	11,12,40,75	194	131	258	11,12,92
97	75	195	131	263	11,12
99	75,101,105				

